88-1542 ①

Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
CLERK

CASE NUMBER

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1988

IN RE JERALD LEE BARKSDALE

ON
WRIT OF MANDAMUS
TO THE UNITED STATES
DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA
AND THE NINETEENTH AND TWENTIETH
DISTRICT COURTS OF LOUISIANA

PETITION OF JERALD LEE BARKDSALE
PETITIONER

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346pp

1. QUESTIONS PRESENTED

1. Do the facts of this case reveal that conversion was fraudulently ordered without legal justice or factual support, and Petitioner's life is in critical danger resulting from constitutional deprivations?

2. Do the facts and appended documentation show that Petitioner sought aid of the U.S. Department of Justice to document long-term fraud with the F.B.I., and it was treated with disregard by the Department.

3. Were the mandates of recusal unlawfully renounced and suppressed?

4. Does the finding that Petitioner is (a) unable to proceed rationally, and in a businesslike way, (b) not functionally the best suited to make decisions about its estate, and (c) an extremely litigious person, represent constitutional deprivations?

5. (a) Was the stipulated judgment unconstitutionally created; (b) is it null under Louisiana law; (c) do constituents

include the suppression of current litigation, relating the constitutional deprivation of Black Citizens that resulted from unlawful acts and abuse of federal monies; and (d) do constituents include the suppression of long-term fraud and corruption?

6. (a) Do the facts show that by 26 November 1986, any debt Respondent alleged, was fully satisfied; (b) Respondent continued to pursue with fraudulent intent; and (c) conversion occurred without any lawful debt remaining that required conversion?

7. Do the facts show that Petitioner and its Wife (who is not a party), are currently restrained by: (a) enjoinment; (b) false arrest; (c) false charges; (d) sanctions; and (e) the duress of incarceration, plus $100,000 fines; for the purpose of suppressing the fraud, and constitutional deprivations that are documented by "Appellant's Compliance with Rule to Show Cause," filed 16 July 1987, in the District Court?

2. PARTIES TO PROCEEDING

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Petitioner (Jerald Lee Barksdale) certifies that three copies of its complete brief were served, by U.S. mail, first class, postage prepaid, this 17th day of March 1989, to each of the parties named.

Jerald Lee Barksdale

SWORN TO AND SUBSCRIBED

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5. OPINIONS AND JUDGMENTS BELOW

Documentation in respect of which the writ is sought, is appended (Section 14, Appendix) by (1) Petitioner, A1.1-82; (2) U.S. Department of Justice, A2.1-3; (3) U.S. Fifth Circuit, A3.1-14; (4) U.S. District Court, A4.1-32; (5) Bankruptcy Court, A5.1-69; and (6) Bank, A6.1-7.

Consummating documenation issued from the District Court on 9 and 10 August 1988 respectively, as (1) Order (App. A4.31), and (2) Judgment (App. A4.32).

6. JURISDICTIONAL GROUNDS

Petitioner seeks relief pursuant to 28 U.S.C. § 1651(a), and invokes Fed. R. Civ. P. 60(b). It particularly avers that the relief is not available in any other court, because (1) the issues were removed to the federal judicial system; (2) normal appeal procedures are exhausted; and (3) incarceration looms imminent, to suppress the fraud that is both intrinsic and extrinsic.

7. CONSTITUTIONAL AND OTHER CITINGS

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8. STATEMENT OF THE CASE

8.1 The Implicit Nature

Its implicit nature belies the simple outward appearance of this case that is now reflected by the alleged clear findings of fact. Constituents include the suppression of current and long-term fraud through Petitioner's false arrest and enjoinment. Its life is now in crucial danger, resulting from the constitutional deprivations.

8.2 Origin is the Case Heart

The heart of this case is Petitioner's Rebuttal . . . To Section 362, filed on 3 June 1986 that informed the court about the Mills Tract joint venture, and the infirmities of documentation. (App. A1.26-46)

Petitioner's rejection of demands that it deny Black citizens their constitutional freedom to live and enjoy the Mills Land Tract Development in Zachary, La., was the initial reason Respondent abandoned its joint venture with Petitioner and precipi-

tated this case. Primary constituents of the case origin include the suppression of Respondent's obligations owing to the joint venture, its fraudulent representation of the stipulated judgment, and the suppression of unlawful and clandestined abuse of Housing and Urban Development monies with public officials.

Petitioner has lived in Zachary, La. since late 1978, and petitioned Chapter 11 protection on 15 April 1986. (R 1.1, at 1-19) The petition was precipitated by the creation and facts relating the stipulated judgment, the origin of which is May 1984.

8.3 Recusal is the Case Root

The root of the case is Petitioner's Motion of . . . Requesting Recusation of . . . With Affidavit of Bias or Prejudice, filed on 15 August 1986. (App. A1.60-67)

8.4 Fraud is the Case Core

The core of the case is Petitioner's Compliance with Rule to Show Cause, filed

on 16 July 1987 that outlined the fraud now suppressed by its false arrest, conversion, and enjoinment. (R 14.14, SS 1-7)

Ancillary herein, is the refusal of the U.S. Department of Justice, to extend protection to document the evidence with the F.B.I. (App. A1.1-25, A2.1-3)

Suppression of long-term fraud is the core constituent of this case. It began prior to 1978, currently continues, and relates to entities and other assets that Petitioner owned or controlled, shown in appended correspondence to the Department of Justice. (App. A1.8-9) Discovery was suppressed and it came late. (R 14.14, § 3, ¶ 43) Petitioner thinks it incumbent, and confesses its limited formal education.

Elements of the suppression include facts that commenced in 1966 and continue today, as they relate to the departure of Petitioner's brother, on becoming project manager for construction of our nation's

space related facilities at: Cedar Rapids, Iowa; Newport Beach, California; Canberra, ACT, Australia; Madrid, Spain; and Alice Springs, Northern Territory, Australia.

8.5 Medical Warnings Affirmed

Medical warnings were affirmed. The stress from the facts of the core, and further unlawful acts to suppress discovery, caused Petitioner to suffer a series of heart attacks from 4 December 1979 until 1981. Four by-pass surgery occurred, but only a twenty-five percent operative heart muscle remains. Petitioner was declared totally disabled in 1981. Fortunately, no indication of the trauma is visible, and its mind somehow remains intact. In early 1984, Petitioner realized the Deity spared its life, and challenged it to endure the pain, accomplish important goals within the time remaining, and uncover the suppressed fraud and corruption that all but killed. (R 14.14, § 7, ¶¶ 1-6)

8.6 The Bank of Zachary

Respondent, a state chartered bank, is essentially family owned (Mills family). Harry Morris Jr., its president and board member, is the son of a prominent board member. Gilbert Mills, a large dairyman and landowner, is a brother to Respondent's board chairman, Albert Mills. Most board members of Respondent were knowledgeable of Petitioner and considered friends prior to 1985. In 1979, Petitioner was asked, after the facts of the fraud required that it move its family into Zachary, La., and it became involved with relatives of most board members in an extensive interstate venture financed by Respondent that needed Petitioner's expertise. The first heart attack occured on 4 December 1979.

Respondent encouraged Petitioner to become active again. In April 1984, Morris assured Petitioner of available funding. By 25 July 1984, a project was commenced on

the basis that Respondent approved a loan. Initially, the project involved the modification and mobilization of related construction equipment that was completed and securely parked by 28 October 1984.

8.7 Mills Tract Development

Morris solicited Petitioner to delay its plan, and consider development of a portion of the Gilbert Mills tract (Mills Plantation), and arranged a meeting between himself, Petitioner, and Mills to discuss development of a fifty-seven acre portion of the tract on 29 October 1984. A series of meetings continued through 20 November 1984. On that day, Petitioner became intimately involved with, and virtually wholly dependent on Respondent, having agreed to commence development of the tract as asked.

8.8 No Black Citizens Allowed

Later, Gilbert Mills asked Petitioner if Black people would be allowed to live in the development. Accepting the question as

a distasteful joke, Petitioner learned later that Respondent (Bank) did not even allow any Black employees - it was no joke.

Project development advanced beyond a point of no return for Petitioner. Thence, the joint venturers and others made the unlawful, unconscionable, and primary demand that Petitioner bar all Black citizens from the project. A simple wink would have sufficed, Petitioner would not do that. Joint venturers, elected officials and others became vociferously inimical and retaliated.

The Court needs no reminder that banks do not make loans arbitrarily. Fundamental to all loans is the time tested criteria: character, capital, and capacity. Perhaps, character is the most important criterion.

Respondent made loans to Petitioner. It appears reasonable, therefore, to think that Petitioner met the time honored criteria. Points below, are submitted as a case of fact and law deserving of relief.

9. SUMMARY OF ARGUMENT

The essence of this case is a showing of fraud by (1) the maintenance of Respondent in its claim that precipitated this case, without lawful supporting documentation; (2) the renouncement, diversion, and interlocutory finding, relating the crucial issue of recusal; (3) pursual to execution of the undocumented claim; (4) maintenance of the claim, after full settlement by one or more adjudications; (5) denial of Petititioner's plan to pay any debt remaining; (6) conversion, with no lawful debt remaining; (7) the duress, fines, and suppression of Petitioner, and its Wife (who is not a party), by false arrests, and enjoinment, to suppress, the heart, root, and core constituents; (8) the suppression of exertions to invoke Fed. R. Civ. P. 60(b); and (9) the disregard for Petitioner's life.

The summary of the argument confirms a case of fact in the Questions Presented.

POINT I

FINDING PETITIONER IRRATIONAL AND UNABLE TO PROCEED IN A BUSINESSLIKE WAY AS THE SOLE REASON FOR CONVERTING THIS CASE REVEALS CONSTITUTIONAL DEPRIVATIONS THAT INVALIDATE THE CONVERSION

I.1 Unlawful Urgency

Replacing Petitioner as Debtor In Possession was necessary to suppressing the heart, root, and core constituents of this case. Notwithstanding that Petitioner did properly list its pending litigation in the assets section of its Chapter 11 (Reorganization) Petition (R 1.1-19), the urgency of conversion to Respondent, its law partners and associates, is shown in Kuriakuz v. Community National Bank of Pontiac, 308 N.W. 2d 658, 107 Mich. App. (1981).

When no ligitimate reason existed to support conversion, Respondent created an unlawful one - found Petitioner irrational.

Concluding the fraudulent conversion hearing on 18 May 1987, Respondent stated:

> (1) The Debtor in prior experience here has appeared to be extremely litigious and I doubt is really functionally the best suited person to make decisions with respect to . . . it. (R 14.5, at 93)
> (2) I see substantial detriment that could occur from continuation in a Chapter 11, one of those being that perceived as the inability of the debtor _rationally_ and in a businesslike way to proceed . . . (emphasis added). (R 14.5, at 93-94)

For a reason to support the fraudulent _enjoinment_ (shown below), Respondent found one - _mental problem_. (App. A5.59)

Citing _Kuriakuz_ is confirmed as germanely accurate by Judge Polozola's Minute Entry affirming Petitioner's enjoinment. He stated, "Movant has no authority to bring such a motion." (App. A4.24)

Constitutional deprivations resulted from the contravention of U.S. Const. art. I, § 8, cl. 8; art. III, § 2, cl. 1-3; art. IV, § 1; amend. IV; amend. V; amend. VII; amend. VIII; amend. X; and amend. XIV, § 1.

The finding shows constitutional deprivations that invalidate the conversion, because it (1) admits the unconstitutional usurpation of Article III subject matter jurisdiction, (2) violated Fed. R. Civ. P. 35(a), (3) contravened 28 U.S.C. § 157(a), (4) is void of lawful support showing 11 U.S.C. § Bankr. R. 1107 fault, (5) revokes 11 U.S.C. § Bankr. R. 6009, (6) denies due process, (7) renounced 28 U.S.C. § 1657(a), (8) deprived 11 U.S.C. § 1112(c) mandates and (9) negated the jury trial demand.

Contravening 28 U.S.C. § 1657(a), Respondent caused adversarials relating Point II (below [trial by jury demanded]), and Point III (below) to be deferred, pending conversion. The fraud is revealed by Respondent's statement, "[T]hen it belongs in a 7 because a Chapter 7 Trustee can carry forward that litigation as well as anybody else." (R 14.5, at 86)

Respondent named Ms. Derren Johnson, (L.S.U. '85) Trustee. (R 14.7, at 1) Soon after, Petitioner was ordered to court by federal marshals; guarded; questioned by the Hearing Officer and Trustee, relating the number and caliber of firearms owned; escorted down the elevator; and released onto the street - the entirety of its property confiscated, its health critical.

I.2 Estoppel of Incompetency

The Court concluded in Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 450 U.S. 50 (1982) that the Constitution "unambiguously" enunciated the principle that the judicial power of the United States must be vested in an independent judiciary and that Article III provides clear "institutional protection" for that independence. 450 U.S. at 60. Quoting:

> The inexorable command of (Article III) is clear and definite: The judicial power of the United States must be exercised by courts having the attributes prescribed in Art. III. 450 U.S. at 58-59.

I.3 Fraudulent Conversion

The fraudulent conversion is confirmed by Respondent's order of 3 May 1987 (App. A5.18-19) that denied withdrawal by Counsel of its motion to withdraw its Motion Withdrawing Previously Filed Motion to Convert. (App. A6.1-2) The fraudulent Disclosure (R 10.2, at 1-7), and the Plan of Reorganization (R 10.3, at 1-7) were willfully presented and maliciously ordered to remain in evidence. Counsel alleged Petitioner's failure to submit financial data. Counsel then admitted the fraud, and alleged the Clerk (Dora Erfurt) found the information. Being estopped, Counsel and Respondent pursued with fraudulent intent, pursuant to Fed. R. Civ. P. 60(b), using the U.S. mail to deliver the fraudulent Disclosure. (R 14.14, § 3, ¶¶ 44-72)

The epitome of the false act is shown by Respondent's statement concluding the conversion hearing alleging Petitioner's

impropriety relating financial information. (R 14.5, at 94) Respondent was estopped by its own order that impeaches its veracity.

Petitioner filed documentation timely that is not refutable, shows the nullity of alleged clear findings of fact in the case, and includes (1) its Disclosure (R. 13.1, at 1-5), (2) its Plan (13.2, at 1-3), (3) Objection to Disclosure Statement Filed by the Bank of Zachary (R 14.3, at 1-5), and (4) Memorandum in Opposition to the Motion to Convert Case (R 14.4, at 1-9).

Evidencing its duplicity, Respondent stated, "Mr. Rubin, let's take your motion to convert first. If that's granted, the disclosure statement becomes moot." (R 14.5, at 3) Denying Petitioner its right to pay any lawful debt, yet willfully maintaining counsel in its false claim, is submitted as a fraud upon the Court, pursuant to Fed. R. Civ. P. 60(b).

The precariousness of position caused Petitioner, and the fraud of conversion, are made manifest by the knowledge that Respondent acknowledged that no debt was due, by filing its required I.R.S. reports on 6 and 21 January 1987. Petitioner is liable for the related taxes, and enjoined (shown below) from protecting its property.

I.4 Estoppel of Breach

Respondent's incompetency and willful violation of 11 U.S.C. § 362(d) mandates estopped citing its own breach of the law as reason to order conversion and obstruct the clear mandates relating damages. The Congress anticipated cases such as this, and mandated 11 U.S.C. § 362(h) that reads: "An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys fees, and in appropriate circumstances, may recover punitive damages."

As shown below (Point II), Respondent ignored the heart of this case (App. A1.26-46), and ordered the stay lifted. (R 3.9) Respondent was cognizant of the concomitant facts, and the necessity of the equipment to the future work load (reorganization).

The hearing transcript relating the stay lifting reveals that such was not allowed as mandated by U.S.C. § 362(d). (R 3.9, at 1-74) The preliminary hearing transcript shows that no intent existed to even allow the mandated hearing. (R 3.8)

Respondent stated during the hearing to convert, "There is no business to reorganize. From what I understand, there has been no business since 1979 or substantially since then." (R 14.5, at 92) Disavowing factual reality (Mills Project), Respondent concurrently indicted, convoked, and certified impeachment of its own veracity. It was estopped from finding its own breach as reason for conversion.

POINT II

DOCUMENTATION DEFICIENCIES IN THE STIPULATED JUDGMENT CANNOT BE CORRECTED BY THE UNCONSTITUTIONAL VESTING OF STATE JUDICIAL SUBJECT MATTER JURISDICTION AND INVALIDATES THE CONVERSION

II.1 The Stipulated Judgment

Counsel's fraudulent pursual of the stipulated judgment that precipitated this case, without lawful documentation, is the heart of the matter. The concomitant facts have momentous bearing because, lawful documentation does not exist. Constitutional infirmities invalidate the conversion. The deprivations contravene U.S. Const. art. III, § 2, cl. 1-3; art. IV, § 1; amend. IV; amend. V; amend. VII; amend. X; and amend. XIV, § 1. The Judgment is null per La. Code Civ. P. art. 2004. (R 9.36, at 1-7)

Respondent sued on 23 August 1985 (19th Jud. DC La., 292,405, Douglas Moreau, P.J.), with no documentation attached. It

failed to comply with La. Code Civ. P. art. 853. Petitioner answered through Karl Cavanaugh, Attorney. (R 9.36, at 3)

Respondent filed its Motion for Summary Judgment that converted the case to an executory proceeding, pursuant to La. Code Civ. P. art. 2591. _Again_, it _failed to enter_ the required supporting _evidence_. (R 9.36, at 3) Hearing was ordered and held 17 January 1986, _without_ Petitioner.

Failure to enter documentation into evidence, is an ill practice that invalidates the judgment: La. Code Civ. P. art. 2004. _Temple v. Jackson_, 376 So. 2d 972 (1st Cir. 1979). (R 9.36, at 3-4)

Russell Bankston fraudulently executed Respondent's new affidavit that it alleged to support its Motion for Summary Judgment. No documents were executed before a notary. The only documents to exist are invalid, resulting from Respondent's overpayment errors, and deposits to open the account, Barksdale Engineering. (R 9.36, at 4)

The judgment is invalid because the requisites for a valid compromise: acceptance, consideration, capacity, and form, are not found as mandated by La. Civ. Code, art. 3071. 14 Tul. L. Rev. 282 (1940). (R 3.1, at 1-34; R 9.36, at 5)

Respondent falsely certified that all monies alleged owing represented chattel property, which is not true. The judgment is invalid, because a compromise entered into on documents, later found false, is null in toto. La. Civ. Code art. 3081.

The requisite acceptance of a valid compromise is not found in the stipulated judgment, and it is void by La. Civ. Code art. 3071. Attorneys may not consent to a final disposition of a client's case without express authority. Smith v. Windham Trucking and Excavating, Inc., 627 F. 2d 792 (7th Cir. 1980); The Frein's Exchange v. The Bradford Exchange, 600 F. 2d 99 (7th Cir. 1979). (R 9.36, at 6)

The judgment is invalid because it is not a legal conclusion. The legal fees were not lawfully determined and entered.

The legal test for determining whether or not a judgment was obtained by "actionable fraud or ill practice" is whether (1) the circumstances under which it was rendered showed legal rights deprivation; and (2) enforcement was inequitable and unconscionable. Kem Search, Inc. V. Sheffield, 434 So. 2d 1067 (La. 1983); Johnson v. Jones-Journet, 320 So. 2d 553 (La. 1975), rehearing denied. (R 9.36, at 6)

II.2 Suppression of the Heart

The heart of this case is Petitioner's Rebuttal . . . to Section 362, filed 3 June 1986 that informed the Court relating (1) the Mills Tract joint venture; and (2) the deficiencies of documentation relating the stipulated judgment. (App. A1.26-46)

Karl Cavanaugh, David Rubin, and Judge Moreau entered the stipulated judgment on

17 March 1986 that precipitated this case. All knew that documentation did not exist. All knew the judicial mortgage would automatically attach that prevented the sale of Petitioner's home and other property to deny it an attorney. Petitioner has never acquiesced, or shown mental reservation about its intention to bring suit against Respondent. Its answer to the petition shows its assertiveness of the contract breach by Respondent, and denial of its own. It did not then owe, nor has it ever owed, any personal debt. It owed no business debt except a minimal amount, as compared to the contract completed amount for the joint venture. Cavanaugh advised Petitioner after receiving full payment, to consider bankruptcy with another lawyer.

Having falsely certified the judgment, Counsel appeared as the only creditor at the Section 341(a) meeting. (R 2.4, at 1-25) Counsel was estopped by the mandates of La. Code Civ. P. art. 2251.

Acting with fraudulent intent, Counsel caused his phraseology to deceptively represent that documentation was a part of the judgment. Ignoring the Stay mandated by 11 U.S.C. § 362, Counsel filed a Motion Seeking Modification of the Automatic Stay . . . Dismissal or Conversion of This Case, on 12 May 1986. A fraud per Fed. R. Civ. P. 60(b). (App. A6.3-7; R 3.1, at 1-34)

Contravening due process guarantees, Respondent (Bankr. J.) ignored Petitioner's Rebuttal, and allowed Harry Morris Jr. to fraudulently allege that documentation then presented, was the authentic documentation that Counsel failed to present in the state system. (R 3.9, at 5-10) Morris was on a month long hunting trip in Wyoming when the errors occurred. Contravention constitutes an unconstitutional, and incompetent vesting of state subject matter in the federal system without Article III jurisdiction.

Confirming its disregard for the Rebuttal . . . to Section 362 (the case heart); the unlawful lifting of the Stay, and revealing the implicit nature of this case; Respondent stated:

> (1) [S]o if there are any deals, if there is any - anything other than the value of the equipment, the protection that the bank has and the two issues that I talked about, anything outside of that, I won't hear it today. (R 3.9, at 25)
>
> (2) It doesn't matter. That's not at issue . . . Whose fault it is doesn't matter. (R 3.9, at 25)
>
> (3) Well, it may be in the . . . But we are not worried about the future today. I've got to rule on the issues that are before me today. (R 3.9, at 31-32)
>
> (4) I'm going to let him go ahead and finish the statement. I don't want to go into the joint venture agreement. (R 3.9, at 67)

A clear finding of fact did not, and could not occur. The Stay was fraudulently lifted, pursuant to Fed. R. Civ. P. 60(b).

Further revealing the implicit nature and confirming that a clear finding of fact did not occur, is the Judgment on Appeal. Petitioner presented twelve points for review, and also stated (R 3.25):

> VI. Failure by the Bankruptcy Judge to recognize that security devices presented by Appellee are not proper that the devices have never before been presented in court that Appellant has never acknowledged the same that Appellant is required to bring to the Court's attention, and that innocent third parties will be hurt.

Denying a hearing on the undocumented claim, Judge Polozola affirmed the lifting on 3 November 1986. (App. A4.4-6) A clear finding or lawful claim is moot.

II.3 Petition for Injunction

The property being critical to its reorganization, Petitioner petitioned an injunction in the state court 8 July 1986. Petitioner properly phrased its petition, and stated that Respondent was not entitled to proceed by executory process. Summary judgments are executory process mandated. Conversely, Counsel was similarly estopped by ordinary process. A valid judgment did not exist. Judge Moreau ignored the petition, and Judge Polozola ignored the certified copy furnished him. (R 9.36, at 3, 8)

II.4 Petition of Nullity

Petitioner's Petition of . . . Nullity of Judgment . . . Zachary (19th Dist. Ct. La., 292,405, Douglas Moreau, P.J.) was filed on 7 August 1986. Judge Moreau (1) ordered that Petitioner amend its petition, deleting the suppressed fraud issues; (2) ordered (disregarding Petitioner's letters of protest) that Petitioner meet with himself, Rubin, Cavanaugh, and Robert Tillery, before the amended petition was answered (contempt of due process); (3) sought to force recognition of false evidence under oath; (4) denied the amended petition; and (5) refused appealable reasons. (R 9.36, at 8-9; R 14.14, § 3, ¶¶ 22-34) Judge Moreau's brother and David Mills were major adversaries of the Mills Tract project. (R 14.14, § 3, ¶¶ 31-32)

POINT III

UNLAWFUL SEIZURES AND SALES THAT INCLUDE FRAUD AND ARE SUPPRESSED BY FALSE ARRESTS AND ENJOINMENT REVEAL CONSTITUTIONAL DEPRIVATIONS THAT INVALIDATE CONVERSION

III.1 Dispositive Adjudication

The adjudication that occurred on 5 November 1986, was dispositive of any debt Respondent alleged (lawful or otherwise). The claim stood fully satisfied that day. Being the only bidder, Respondent bought the property it unlawfully seized and held in its possession without documentation.

Notwithstanding the improprieties and delay by the Sheriff in filing its return, adjudication occurred 5 November 1986. The Louisiana Supreme Court decided this issue at least as early as 1862, *Taylor, Knoff & Co. v. W.T. Hancock & Co.*, 27 So. 446 (La. 1862). Further, the Court found that non-execution of a sheriff's deed was of no

consequence, Pasley v. McConnell, 3 So. 485 (La. 1887). Again, the Court decided in McCall v. Irian, 6 So. 845 (La. 1889). Indeed, the Court held, it is through mandamus that a sheriff is compelled to make and file a sheriff's deed for record, State v. Dunn, 62 So. 639 (La. 1913).

Petitioner submits that conversion is invalidated, because Counsel petitioned on 23 July 1986 (20th Dist. Ct. La., Wm. Kline Jr. P.J.); requested that "Judgment be made executory in this court pursuant to Articles 2781 and 2782 of the Louisiana Code of Civil Procedure"; requested a writ of fieri facias issue, directing seizure and sale with appraisal; but failed to submit the authentic evidence (or that alleged by Morris [shown above]) mandated by La. Code Civ. P. arts. 2635 and 2636. (R 19.1) The petition represents fraud, pursuant to Fed. R. Civ. P. 60(b). Renouncing the mandates, Judge Kline ordered the writ issued without

documentation that constitutes deprivation of due process, and invalidates conversion.

Notwithstanding the Rebuttal . . . to Section 362, Ed Canning, vice president of Respondent, bought the property at two-thirds the unlawful value alleged to have been set by Respondent (Bankr. J.). Deputy McKnight, the Judge, Counsel, and Canning, were all cognizant that the mandated documentation did not exist. All were aware that the writ of fieri facias could not be lawfully returned satisfied or not, pursuant to La. Code Civ. P. art. 2297, because the stipulated judgment cannot be shown as a legal conclusion that is mandated by La. Civ. Code Ann. art. 3071. Canning also signed the fraudulent plan of conversion (noted below). (R 9.36, at 10-14, 16) A fraud per Fed. R. Civ. P. 60(b).

Petitioner asked, and McKnight falsely affirmed that appraisals were in the file. McKnight then confirmed the sale figures

with Canning, and he left. Petitioner certifies the sale that is verified by notes shown in the record file. Having failed to comply with La. Code Civ. P. art. 2332, and after having lied about the appraisals, McKnight refused to allow Petitioner to see the sale file (public record). Later, McKnight failed to comply with La. Code Civ. P. art. 2342 and 2343, renounced art. 2297, and proceeded under art. 2336, to process a second sale. Deficiencies in the stipulated judgment estopped any lawful compliance with the mandates of execution.

Petitioner petitioned (20th Dist. Ct. La., 21,949, Wilson R. Ramshur, P.J.) for a writ of mandamus to compel the sale or to show contrary cause. (R 9.36, at 10-14) Hearing was ordered for 13 January 1987.

Petitioner also petitioned through its counsel (20th Dist. Ct. La., 21,930, Wilson R. Ramshur, P.J.) for a writ of mandamus to compel the sale or to show contrary

cause. (R 9.36, at 10-14) Hearing was ordered for 13 January 1987 also.

At hearing on Case 21930, confirmation of the adjudication without appraisal on 5 November 1986, and the record review denial were made manifest by the testimony of Chief Deputy Linda McKnight and Deputy Mary Ann Williams. (R 9.36, at 10-14) Judge Ramshur ordered:

> In Number 21930, Jerald Lee Barksdale versus Doughty, et al. the Court will award Mr. Barksdale the sum of $500.00 for attorneys fees and costs.

Without conducting a hearing on Case 21949, Judge Ramshur stated in Case 21930:

> Okay. In Number 21949, after reading of the pleadings, also from what the Court has heard about the circumstances of the November 5th, "Sale", it convinces the Court that the mandamus does not lie and will order the mandamus dismissed. That does not prejudice any filing for any other type of relief which might be appropriate.

Petitioner submits that Judge Ramshur erred critically, because the mandamus was appropriate, adjudication without appraisal

was made manifest by sworn testimony that is not invalidated by incompetent evidence alleged to have been heard by the Judge, a reading of the pleadings does not support the findings, and documentation or appraisals were not shown. The Judge's finding represents due process denial that contravenes U.S. Const. amends. V and XIV, § 1. Judge Ramshur relates to the core through his partner Hamilton Willis.

III.2 Unlawful Ex Parte Removal

Petitioner petitioned a declaratory judgment (19th Dist. Ct. La., 313,631) on 19 March 1987, by ordinary process pursuant to La. Code Civ. P. art. 1871. Any debt being satisfied, Petitioner sought removal of the unlawful judicial mortgage that precipitated this case (noted above). Judge Polozola revealed the implicit nature of this case, and ordered the petition removed to the federal system on 25 March 1987; to be heard by Respondent. (R 9.1, at 1-2)

The petition by Counsel was not issued until 26 March 1987. (R 9.2, at 1-4)

Ex parte contacts are prohibited by Bankr. R. 9003 mandates. Petitioner submits, any alleged clear finding of fact in this case is invalid because of the extrajudicial contacts and mandate renouncement.

The removal contravened 28 U.S.C. § 1334(c)(1). No timely motion was made, or hearing held. Ex parte removal contravened 28 U.S.C. § 1334(c)(2).

Judge Polozola also contravened La. Code Civ. P. arts. 2251 and 2297. Article 2251 mandates execution of judgments only by trial courts. Article 2297 mandates that writs of fieri facias not satisfied, be returned before a new writ is issued.

The removal represents due process denial that contravened U.S. Const. art. III, § 2, cl. 1; amend. V; and amend. XIV, § 1. Contravention represents the unconstitutional vesting of state judicial sys-

tem subject matter jurisdiction, and the unconstitutional vesting of subject matter jurisdiction in an incompetent court.

III.3 Fraudulent Disposition

After the removal, Petitioner filed a Motion For Expedited Hearing, on 23 April 1987, (R 9.9); and Memorandum in Support of Motion for Expedited Hearing. (R 9.10) Being dispositive of Appellee's undocumented claim, it was critical that hearing be held prior to the ordered Conversion Hearing on 18 May 1987. Respondent denied the hearing, and conversion occurred on 18 May 1987, because Petitioner was alleged irrational. (R 14.5, at 93-94) Denial of the hearing contravened 28 U.S.C. § 1657 (a). A fraud per Fed. R. Civ. P. 60(b).

The Conversion Order was mailed on 22 May 1987, and received on 25 May 1987. (App. A5.8) On 26 May 1987, Counsel filed its Statement of Material Facts (moving for summary judgment and alternatively for a

judgment of dismissal), (R 9.17); Affidavit, (R 9.18); and Memorandum. (R 9.19)

The Notice of Hearing . . . Dismissal for 17 June 1987, or Counsel's submittals, were not mailed to Petitioner as certified. Petitioner was without knowledge. (R 9.20)

A second ordered hearing was set for 1 July 1987. (R 9.22) The Sheriff of East Feliciana Parish did not file in support of Counsel until 22 June 1987. (R 9.23)

III.4 Fraudulent Submittals

The Affidavit filed on 26 May 1987, is a false and fraudulent document, because Counsel certified that only two sales were held, with both pursuant to writs of fieri facias; and executory process was never used. (R 9.18, at 1-2) Petitioner showed that facts belie the assertions in its appeal of the Summary Judgment. (R 9.36, at 1-21) Three sales were held - not two - indeed, Counsel required that the judgment be made executory, pursuant to La. Code

Civ. P. arts. 2781 and 2782. Likewise, the Memorandum and Statement of Undisputed Material Facts are false and fraudulent. A fraud per Fed. R. Civ. P. 60(b).

Impeaching the veracity of Counsel's submittal, and the conversion of this case, is the answer to Petitioner's Petition for Declaratory Judgment, filed by the Sheriff of East Feliciana Parish, in the state judicial system (313,631) before removal; and the Sheriff's Return filed 8 January 1987, (20th Jud. DC La. 21,636, Wm. Kline, Jr. P.J.). The documentation acknowledges that two sales were held in Clinton, La. on 5 November 1986 (R 9.36, at 10-14); and 26 November 1986. (R 9.36, at 14-15) The third sale occurred on 23 January 1987. (R 9.36, at 15-16) None were lawfully held, and supporting evidence was never shown.

The veracity of Counsel's Affidavit is further impeached by Petitioner's Petition for Declaratory Judgment. Seizing upon an

opportunity of the moment (occasioned by Petitioner's being alleged irrational and not present), Counsel fraudulently represented Petitioner's petition, and the concomitant facts relating writs of fieri facias, and executory process. (R 9.19)

Petitioner has shown that sale and adjudication to Respondent occurred without appraisal on 5 November 1986. By failing to comply with the mandates of La. Code Civ. P. arts. 2332, 2342, and 2343, the Sheriff created constitutional infirmities that denied due process, and estopped further writs of fieri facias, per La. Code Civ. P. art. 2297 (ordinary process).

III.5 Second and Third Sales

Proceeding to a second sale in contravention of La. Code Civ. P. arts. 2297 and 2336, the Sheriff again failed to comply with arts. 2332 that invalidates its acts under arts. 2342 and 2343. In essence, the Sheriff again failed to cause the mandated

appraisals to be made that invalidated its act of sale and return. (R 9.36, at 14-15)

Statements by Chief Deputy McKnight in the Sheriff's Return are false. Deputy McKnight was hospitalized after the second sale that was conducted by Deputy Mary Ann Williams. (R 9.36, at 14-15) The appraisals were not made; yet, fees were paid and falsely charged to Petitioner. Respondent and Judge Polozola are suppressing the fraud per Fed. R. Civ. P. 60(b).

The invalidity of sale three was shown in Petitioner's Appeal . . . No. 87-0058 under C.A. 87-911B. (R 9.36, at 15-16)

III.6 Unconstitutional Citing

The constitutional guarantees of due process are clear and mandated under Louisiana law, relating the obtaining and execution of judgments by ordinary process. Judgment infirmities preclude execution, and infirmities in the execution process preclude deficiency actions. Due process

encompasses the entity, id. obtaining and execution of judgments, and requires that actions by parties offended be against the offending parties - not an arbitrary transfer of the responsibility to third parties.

La. Code Civ. P. art. 2254 mandates that sheriffs execute writs of fieri facias. La. Code Civ. P. art. 2291 mandates that legitimate judgments obtained by ordinary process may be executed by a writ of fieri facias. La. Code Civ. P. arts. 2331-2343 mandates the procedure for execution on writs of fieri facias by judicial sale. La. Code Civ. P. art. 2332 mandates appraisal according to law prior to sale. La. Code Civ. P. art. 2336 mandates that sales are precluded if the highest bid is less than two thirds of appraised value. La. Code Civ. P. art. 2297 mandates that after a writ of fieri facias is returned unsatisfied, another writ of fieri facias

may be issued. The mandates are clear, and do not relate to executory process.

Facts belie the assertion relating enjoinment (shown above, Point I).

Counsel cited Guaranty Bank of Mamou v. Community Rice Mill, Inc., et al., 502 So. 2d 1067 (La. 1987):

> "Unless the judgment debtor enjoins a judicial sale of his property under La. Code Civ. P. Art. 2298, the judgment creditor may continue to have judgment debtor's property seized and sold until the judgment is satisfied despite any appraisal irregularities respecting the property previously sold." (Emphasis added.)

The mandates relating appraisals are no less required for judicial sales by ordinary process than by executory process. Guaranty Bank is radically inconsistent. It is invalid, because its findings are not consistent with mandated procedural law. Infirmities relate to La. Code Civ. P. art. 2332 that is ordinary process mandated, because the Bank was proceeding against a writ of fieri facias. The infirmities are

not procedurally applicable to La. Code Civ. P. art. 2723 that is executory process mandated. The words "deficiency judgment" are phraseology not unique to executory proceedings per La. Code Civ. P. arts. 2771-2772. The Surety (Estate) answered the Bank's petition that was an ordinary process proceeding. It is not clear that all assets of the Mill were exhausted. This would first be required by subsequent writs of fieri facias that the Bank was estopped from seeking because of the due process infirmities created by the Sheriff. Assuming assets exhaustion, the Bank was then similarly estopped, as against the Surety. The words "deficiency judgment" are not removed from the public domain, as would preclude their use in an ordinary proceeding, or tax case. The Bank was otherwise estopped, and should have properly proceeded against the Sheriff, because Guaranty Bank is unconstitutional.

In the instant matter, Petitioner petitioned (before its removal) for a declaratory judgment by ordinary process per La. Code Civ. P. art. 1871. No similar proceeding is mandated under executory proceedings. Had it not been determined irrational, and not present, Petitioner would have shown that La. Code Civ. P. arts. 2331-2343, are ordinary process mandated.

Petitioner's petition is clear, and represents as purported by its title - a Petition for Declaratory Judgment. In its closing, Petitioner prayed for (R 9.10):

> I. A declaratory judgment . . . declaring . . . that the Sheriff . . . did not comply with 13 La. Rev. Stat. Ann., Sections 4363, 4364 and 4365 in procuring appraisals in Writ of Fieri Facias #21,636 "A" . . . rendering the sales pursuant to that writ invalid.
> II. A further declaratory judgment . . . declaring . . . Bank of Zachary cannot maintain a deficiency judgment action or obtain a deficiency judgment against petitioner . . . relative to the foreclosure judgment . . . in this court.

Guaranty Bank resulted from a consent judgment. Its validity is assumed. The instant matter was precipitated by the stipulated judgment that is absolutely null per La. Code Civ. P. art. 2004.

The instant matter is distinguished from Guaranty Bank and belies Counsel's assertion that executory process was never used. Petitioner cited, Counsel availed himself (fraudulently) of the privileges afforded under La. Code Civ. P. art. 2781 and 2782, causing Respondent's claim to be converted to executory process. Seeking to disguise the infirmity of documentation, fraud resulted pursuant to Fed. R. Civ. P. 60(b) that invalidates the conversion.

In the instant matter, appraisals were not made for the first or second sale. Failure to comply with the mandates of La. Code Civ. P. art. 2332 represents an uncontutional seizure and sale that invalidated any claim Respondent pursued on (lawful or

otherwise). In Guaranty Bank, the infirmities were tantamount to no sale at all. In either case, failure to comply with art. 2332 represents due process deprivation. Failure to comply is an issue that rests between the offended parties (banks) and the offending parties (sheriffs). Historically, sheriffs have relied on their sureties to compensate employee errors.

In both Guaranty Bank and the instant matter, the Sheriffs were estopped from proceeding per La. Code Civ. P. art. 2336 and 2297. The continuing guaranty that distinguishes Guaranty Bank is of no moment. The Surety (Estate) was also protected from the due process deprivation.

The false arrest and enjoinment of Petitioner, for the purpose of maintaining Respondent (Bank) in its fraudulent claim, is shown further below.

7

POINT IV

CIRCUMSTANCES SHOW THAT CONVERSION WAS INVALID BECAUSE OF THE RENOUNCEMENT OF THE CONGRESSIONAL MANDATES REGARDING RECUSAL AND ITS INTERLOCUTORY TREATMENT

IV.1 Mandates Renounced

The United States Congress, in its wisdom, found reason and mandated 28 U.S.C. § 455 that is clear, and not subordinate to arbitrary renouncements, diversions, or delays. The Congress also saw need, and mandated 28 U.S.C. § 144 to guarantee due process. The question is not, "Did he ever personally undertake adverse representation?" Rather, the question is, "Did the slightest doubt exist?"

Immediately after knowing the extent that Respondent identifies with the case core, Petitioner filed its Motion of . . . Requesting Recusation of Honorable Wesley W. Steen With Affidavit of Bias or

Prejudice, on 15 August 1986. (App. A1.60) Respondent ignored the issue. Petitioner filed its Motion Requesting Instruction in the Matter of Recusation, in the District Court on 4 September 1986. (R 4.2, at 1-4)

Renouncing the mandates, after delaying the issue almost three weeks, Respondent filed its Transmittal of Motion . . . Steen to the . . . District Court With Recommendations that suggested diversion from its former partner, Chief Judge John V. Parker, and furnished copies of its letter to their former partners, Michael Rubin, and John Powers. (App. A5.3-10) The fraud was suppressed pursuant to Fed. R. Civ. P. 60(b). If it did not exist, diversion was unnecessary.

Judge Polozola sanctioned diversion, and affirmed the renouncement without a hearing. (App. A4.2-3) The Fifth Circuit (opinion by Justice Politz [L.S.U. '59]) delayed the issue by interlocutory finding, and banned publication. (App. A3.1-2)

IV.2 The Accountants

Hawthorn, Waymouth, and Carroll, C.P.A., referred to as the Accountants, lie at the base of the suppressed core issues. Affiliation antedates 1941. It was housed from 1955 with two law firms: (1) Sanders, Miller, Downing, Rubin, and Kean; and (2) Kantrow, Spaht, West, and Kleinpeter. It was also closely allied with Petitioner's former attorneys, (3) Watson, Blanche, Fridge, Wilson, Posner, and Thibaut. (4) A fourth firm, Taylor, Porter, Brooks, and Phillips, also relates to the core.

IV.3 Judge's Former Partners

Sanders, Miller,Downing, Rubin, and Kean relates to the core issues since 1962. Justice Rubin (L.S.U. '41); Gordon Kean (L.S.U. '48); Sanders Cazedessus (L.S.U. '49); Chief Judge Parker (L.S.U. '52); John Powers (L.S.U. '60); Robert Hawthorne Jr., son of the Accountant's founder (L.S.U. '62); Wesley Steen, Respondent Bankruptcy Judge (L.S.U. '74); and Michael Rubin,

brother of David Rubin, and son of Justice Rubin (L.S.U. '75); were all partners in the firm. All relate individually to the facts herein. (R 14.14, § 3, ¶¶ 1-43) All relate to representation of W. H. LeBlanc Jr., the Accountants, and Petitioner's sister, who oppose Petitioner herein.

IV.4 Senior Judge's Firm

Former District Judge Spaht (L.S.U. '31) was a founder of Kantrow, Spaht, West, and Kleinpeter. Senior District Judge West (L.S.U. '41) was a member of the firm, as was Robert L. Kleinpeter (L.S.U. '50). Byron Kantrow Jr. (L.S.U. '65) is a son of the firm's founder. Judge Polozola (L.S.U. '65) was formerly law clerk to Judge West, as was Peter Dazzio (L.S.U. '66), of Judge Posner's firm. David Rubin (L.S.U. '77, son of Justice Rubin, and Counsel herein) is a member of Kantrow, Spaht, Weaver, and Blitzer that evolved from the former firm.

POINT V

FRAUDULENT DOCUMENTATION BY FEDERAL JUDGES REVEALS CONSTITUTIONAL DEPRIVATIONS THAT INVALIDATE CONVERSION, LEAVES PETITIONER'S LIFE IN CRITICAL DANGER, AND DISREGARD BY THE U.S. DEPARTMENT OF JUSTICE NECESSITATES THIS PETITION

V.1 Fear for Life and Property

Petitioner submits that deprivations, currently maintained by its false arrest and enjoinment, invalidate the conversion, and contravene: U.S. Const. art. I, § 8, cl. 8; art. III, § 2, cls. 1-3; art. IV, § 1; amend. IV; amend. V; amend. VII; amend. VIII; amend. X; and amend. XIV, § 1. The suppression of exertions to invoke Fed. R. Civ. P. 60(b), has momentous bearing.

Petitioner lives with genuine fear of incarceration and further unlawful findings

relating its sanity to suppress documentation of the fraud that is the core of this case, with the F.B.I., and for its life.

Petitioner concluded its disregard by the Justice Department relating its letters of 22 June 1988 (App. A1.1-19), and 1 June 1988. (App. A1.20-25) The Department wrote Petitioner on 24 May 1988. (App. A2.1-3)

Petitioner avers pursuant to Fed. R. Civ. P. 9(b) that orders shown below, are false and fraudulently issued, to conceal the heart, root, and core constituents by suppressing: (1) Petitioner's constraint, and property confiscation in its entirety; (2) all exertions to invoke Fed. R. Civ. P. 60(b); (3) the fraudulent contravention of 11 U.S.C. § 1112(b); (4) the incompetent denial of 11 U.S.C. § 1112(c); (5) the contravention of 28 U.S.C. § 1657(a); and (6) fraud pursuant to 11 U.S.C. § 704.

V.2 Ex Parte Show Cause Fraud

A U.S. marshal served Petitioner on 8 July 1987, with Judge Polozola's Rule to Show Cause of 7 July 1987. (App. A4.11-12)

Ex parte contacts are prohibited by Bankr. R. 9003 mandates. The Show Cause Order renounced 28 U.S.C. § 1334(c)(1) and 28 U.S.C. § 1334 (c)(2). A timely motion was not made. An unconstitutional vesting of state judicial jurisdiction resulted.

Petitioner filed its Compliance With Rule to Show Cause (the core of this case) in the Court on 16 July 1987 that outlined the suppressed fraud, and gave its reasons invalidating sanctions. (R 14.14, §§ 1-7)

Justice (Judge) Cole stated in 1977, "Fifteen years is a long time for people to have to contend with such a matter." Judge McGehee (retired) recused himself in 1977, as did Judge Foil in 1982. Judges Pitcher, Guidry, and Stringer were aware of some facts, as was Justice Blanche (retired).

Petitioner's attorney (Steve Stein, Tampa, Florida) died of cancer, the heart attacks did occur; but so has the core discovery.

Statements about its income were made to conceal the fraud relating Petitioner's property. (App. A5.51-65) One aspect of the core is the fact Petitioner received no salary after 1965 until today; because the Accountants (1) caused false financial reports to be produced that certified false losses by Petitioner; (2) produced long-term subordinated debenture bonds to cover the false losses that required Petitioner and its brother to make large cash payments for the debentures; and (3) advised Petitioner to make withdrawals against the debentures in lieu of a salary after 1965, and continued to submit tax returns and conceal the fraud during the ensuing years. After its disability, Petitioner learned it had very limited benefits based only on earnings prior to 1965. (R 14.5, at 61)

V.3 False Arrests

Judge Polozola's Minute Entry of 17 July 1987, relating the Show Cause Hearing, is a false and fraudulent document. (App. A4.13-15) The hearing tape requested to be certified with the record, should confirm a fact of fraud. (R 14.15) Petitioner submits, ordering of its files removed from "his table", and stating that Petitioner's Compliance . . . Cause was "garbage", represents malfeasance with malice. (R 14.24)

The Judge (1) failed to provide Petitioner a criminal attorney; (2) denied a jury hearing; (3) recognized and ignored the pending nullity case; (4) recognized that any alleged debt claimed was settled by one or more adjudications; (5) ordered Petitioner to leave the Sheriffs and Judges alone; (6) ordered Petitioner to appear at any ordered hearing regardless of Loc. R. 2.7(B); (7) and allowed unlawful appearances by: David Rubin, Edna Latchem, and Derren Johnson. (App. A1.68-82)

The hearing occurred when the Judge was leaving on vacation, no spectators were present except those with Petitioner. The hearing that required 1.3 hours cannot be so termed. It was an extremely intense exhibition of prejudiced human behavior, and predisposed purpose; an awesome, and unwarranted display of judicial power.

Documentation that Petitioner outlined and submitted to the Court cannot lie, nor can paper trails. Judge Polozola falsely arrested, and threatened Petitioner under the duress of incarceration plus a $100,000 fine that has suppressed all issues, and left its life in jeopardy, without justice.

Petitioner's Wife (Sugar Bowl Queen on 1 January 1958) married Petitioner on 1 February 1958. Thirty years later, after giving Petitioner two outstanding daughters, and while anticipating a first grandchild, she wished to sit quietly in support of her husband. She is not a party to this

case, did not utter a word, was not introduced to the court, was not represented by counsel, and her identity was only assumed.

For reasons that were unprovoked and consistent with the behavior pattern noted, Judge Polozola (1) shook his finger at Petitioner's Wife; (2) charged that she was aiding in the obstruction of justice; (3) stated that she was unlawfully aiding in the support of a man who was no different than any common criminal, tax evader, or dope addict; and (4) he concluded by also falsely arresting her under the duress of a $100,000 fine, and immediate incarceration.

V.4 Minute Entry Fraud

Judge Polozola's Entry of 31 August 1987, is also false and fraudulent. (App. A4.16) The Court alleged the transcript necessitated the entry. The transcript is void of corroborating evidence. (R 14.5, at 1-95) The order issued by Fed. R. Civ. P. 11. (App. A4.11) Petitioner complied.

V.5 Perjury and Fraud Ordered

Petitioner submits, perjury and fraud exists, pursuant to Fed. R. Civ. P. 60(b), (1) resulting from the Show Cause hearing; (2) caused by unlawful orders by Respondent (Bankr. J.); (3) without regard for Petitioner's opposing motions; and (4) before a mandated Section 341(a) hearing was held.

The Trustee, David Rubin (Counsel for Respondent Bank), and William G. Carmichael (Counsel for Respondent Sheriff, and Deputy McKnight [not a party]), filed joint orders with motions respectively, to replace Petitioner, and dismiss its: (1) Motion for New Trial (19th Dist. Ct. La., 292,405, Douglas Moreau, P.J. [Point II Nullity]); and (2) Writ of Mandamus (20th Dist. Ct. La., 21,930, Wilson R. Ramshur, P.J. [Point III]); with costs, and prejudice.

V.6 Property Confiscated

Acceding to Counsel's fraudulent (1) Claim (R 10.1, at 1-9); (2) Disclosure (R

10.2, at 1-7); and (3) Plan (10.3, at 1-6) that it willfully and fraudulently ordered left in evidence, Respondent seized all property (shown and precisely valued [R 1.1, at 1-19]) for the advantage of its law partners, associates, and classmates. It includes (1) Barksdale v. Bickham, No. 252,829 (19th Dist. Ct. La. Jan. 4, 1982) (motion for summary judgment dismissal by defendant granted) appeal filed, 84/0793 (1st Dist. Ct. App. Oct. 8,. 1985) (found "genuine issue of fact regarding joint venture," contended by plaintiff, remanded for further proceedings) rev'd, (status conference requested May 15, 1987) aff'd. A related decision was rendered In re Succession of Talmadge D. Bickham, Jr., unam. slip opn. (La. Jan 18, 1988); (2) Barksdale v. LeBlanc, No. 312,704 (19th Dist. Ct. La. Feb. 25, 1987); (3) Barksdale v. Bank of Zachary, Adv. (87-38, Feb. 27, 1987); (4) Barksdale v. Sanders, No. 8255

(La. Bar Assn. July 29, 1985) complaint filed (comm. inst. to sue, Aug. 12, 1987), letter after conversion (App. A1.59); (5) trademarks (Grand Champion No. 974,075 and with logo No. 973,529, reg. PTO); (6) development costs (concrete systems); (7) livestock records (feeding, breeding, and showing, including national and state champions); (8)home (value less mortgage); (9) Machinery (mill); (10) minerals; and (11) life insurance (N.Y.L., Prud.).

V.7 Petitioner Enjoined

The more glaring frivolity of the enjoinment (App. A5.49-65) is the failure to show a debt to support conversion - a prerequisite. Obvious indictment of the false act is the fact of the alleged property releases. The act served only to suppress (1) all exertions to invoke Fed. R. Civ. P. 60(b) (R 17.1, 18.1-18.3, 19.1, and 20.1-20.2), and (2) fraud of 11 U.S.C. § 704. Alleged gutteral utterances are not supported by the record, and do not reflect Petitioner's demeanor or discipline.

V.8 Fraudulent Judgment

The willful contravention of 28 U.S.C. § 1657(a), and conversion are confirmed by the ordered cash payment to David Rubin for the appeal that was alleged frivolous and untimely. At issue, the Summary Judgment and ex parte removal of the adjudications (Point III). Reasons given (Minute Entry, App. A4.22-27) are submitted as a fraud pursuant to Fed. R. Civ. P. 60(b). Petitioner's brief reads from the Statement Indicating the Case Nature: "Nature of the case relates to fraud upon the Court, pursuant to Fed. R. Civ. P. 60(b), and . . . 59(a)(2)." (R 9.36) The Judge concealed all reference to 60(b) that is not limited to ten days as created only by removal.

Respondent docketed its judgment on 7 July 1987. (App. A5.28) The Rule to Show Cause also issued on 7 July 1987 that set hearing for 17 July 1987. (App. A4.11-12) Final day to appeal was also 17 July 1987,

notwithstanding 60(b). Petitioner filed its Compliance . . . Show Cause (Core) on Thursday, 16 July 1987. (R 14.14, § 3, ¶¶ 3.56-57) Having complied with the Judge's order on Friday, 17 July 1987, the Appeal was filed on the earliest possible date - Monday, 20 July 1987; and therefore, timely under 59(a) also. (R 9.36, at 1-36)

V.9 Order, 9 August 1988

The Order attests subtle fraud, and flagrant due process abuse. (App. A4.31) At issue, the Mills Tract joint venture (Adv. 87-38) claim, entered at $6,757,000. (R 8.1, at 1-8) The case has several corollaries, particularly K.M.C. Co., Inc., v. Irving Trust Co., 757 F. 2d 752 (6th Cir. 1985). Petitioner demanded a jury trial.

After the Show Cause Hearing, without (1) a mandated section 341 hearing; and (2) without having met, or talked with Petitioner; the Trustee demanded and seized its files. Within three hours, settlement was

entered for (1) a $1,000 legal fee to her, by Respondent, and (2) dismissal with cost and prejudice to Petitioner. Petitioner cites its (1) Statement of Compliance and Protest (App. A1.47-52); and (2) Request for Protection (App. A1.53-39); filed prior to finality that Judge Polozola ignored.

V.10 Judgment, 10 August 1988

Petitioner could not appeal the affirmation or any other action (App. A4.31), because it (1) genuinely feared for its life; (2) knew Judge Polozola was creating a false case; (3) became cognizant of the Court's unique disposition with regards to the Rubin family, W.H. LeBlanc Jr., and the accountants; and (4) thought incarceration and further unlawful findings regarding its sanity, or possible narcotics charges were imminent, and made manifest by Judge Polozola's challenge (App. A4.27)

V.11 Statement of Debt

The fraud and frivolity of conversion is revealed by Petitioner's total debt:

Domestic debt	(none)
Home mortgage less dividends	(1,000)
Mills Tract project	3,500
Total, current	$ 2,500
Home mortgage	$ 8,800
Mills Tract project	9,800
Total, long term	$18,600

V.12 Statement of Confiscation

All property was properly listed and valued in the petition (R 1.1, at 1-19):

Life ins. policies (2)	$ 200
Mineral interests (7)	700
Feed milling equip. (U.V.)	49,900
Home (net of mort.)	62,600
Livestock records	100,000
Dev. costs, concrete	150,000
Trademarks	1,500,000
Barksdale v. Sanders	2,000,000
Barksdale v. B.O.Z.	6,757,000
Barksdale v. LeBlanc	6,670,000
Barksdale v. Bickham	8,210,900
Total	$25,501,300

Mills Tract equipment is not included.

V.13 Statement of Costs

Accountable costs to Petitioner from 15 April 1986 to 15 February 1989, are:

Automobile use	$ 3,400
Home office use	10,200
Cash paid out	17,900
Home damage (after con.)	25,000
Salary loss value	184,600
Farm Bureau ins. loss	200,000
Interest, Sanders suit	927,000
Interest, B.O.Z. suit	1,381,800
Interest, LeBlanc suit	1,528,700
Interest, Bickham suit	3,148,700
Total	$7,427,300

10. CONCLUSION

The absolute evidence, and compelling facts inexorably support the writ. Relief cannot be had in any other form or court. The exceptional circumstances warrant the Court's discretionary exercise of its power to afford relief specifically requested:

1. (a) The conversion (Point I) be reversed, (b) the stipulated judgment (Point II) be found absolutely null, (c) the 5 November 1986 adjudication (Point III) be ordered dispositive of any claim Respondent (Bank) alleged, and (d) remanded against Respondent (Bank), with prejudice and cost of all proceedings in all courts (state and federal).

2. Guaranty Bank be found unconstitutional and alternatively, not applicable.

3. All U.S. Patent office documents be returned to Petitioner with dispatch.

4. (a) Petitioner be returned and secured absolute, in sole possession of the

entirety of its property (to the extent now possible); and (b) the return to include all removed state litigation.

5. Respondent be ordered to pay Petitioner the full amount sued for, and unlawfully seized (Point II), with legal interest reckoned from inception.

6. (a) Petitioner's ordered discharge be reversed, (b) it be allowed to pay any legitimate (non protested) claim filed, and (c) all court costs for all proceedings be ordered paid by Respondent.

7. Order null, all acts that occurred after conversion.

8. Order reinstated, any disputed claim removed after conversion.

9. Order Petitioner's Mills Tract files returned with dispatch and accounted.

10. Respondent (Bank) be ordered to pay Petitioner's accountable costs, caused by the fraudulent acts relating this case (Point V, ¶ 79, § V.13) of $7,427,300.

11. Respondent (Bank) be ordered to pay Petitioner its Mills Tract suit value that was prejudiced by its fraudulent acts (Point V, ¶ 79, § V.12) at $6,757,000.

12. A change of venue be ordered, or alternatively non prejudiced Article III hearing as the Court finds appropriate, of all issues and cases pending and including damages caused by Respondent (Bank).

13. Prevailing sanctions against Petitioner and its wife be removed, and free access made available to the F.B.I.

14. Any other relief or alternative awards found appropriate by the court, in its wisdom.

Respectfully submitted,

Jerald Lee Barksdale
Zachary, Louisiana

11. CASE RECORDS DESIGNATION CHART

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Sec.	PP.	By	Date	Document

§ 1. Original Chapter 11 Petition

	1986			
1.1		A	4-15	Original Petition
1.20		A	5-15	Adjusted Schedule
1.21		A	6-10	La. Schedule
1.22		A	6-10	Monthly Statements

§ 2. Original Sec 341(a) Meeting

	1986			
2.1,	1	C	4-15	Notice
2.2,	1	C	4-15	Order
2.3,	1-2	C	4-15	Prelim. Order
2.4,	1-25	T	5-9	Transcript

§ 3. Bank's Original Motion to Convert

	1986			
3.1,	1-34	B	5-12	Motion to Convert
3.2,	1	B	5-12	Affidavit
3.3,	1-2	B	5-12	Notice
3.4,	1	C	5-14	Notice
3.5,	1	B	5-14	Transmittal
3.6,	1-2	B	5-16	Notice, Amend
3.7,	1-8	A	6-3	Rebuttal to Lifting
3.8,	1-3	T	6-11	Transcript
3.9,	1-74	T	6-11	Transcript
3.10,	1	C	6-11	Corr.
3.11,	1	C	6-11	Order Stay Lifted

Note: A, Appellant; B, Appellee (Bank);
C, Court; D, District, F, Circuit;
T, Transcript; H, Hearing

3.12, 1	A	6-19	Notice, Appeal
3.13, 1-4	A	6-30	Rec. Designation
3.14, 1	C	7-1	Corr.
3.15, 1	B	7-2	Corr.
3.16, 1-3	B	7-2	Mtn., Dismiss
3.17, 1-2	B	7-2	Memorandum
3.18, 1	C	7-7	Transmittal
3.19, 1	D	7-8	Notice, Hearing
3.20, 1	A	7-15	Comp., Bank Error
3.21, 1	D	7-18	Dismissal W.O. Prej.
3.22, 1	C	8-13	Correspondence
3.23, 1-2	C	9-9	Clerk's Cert.
3.24, 1	C	9-15	Notice to Counsel
3.25, 1-18	A	9-30	Original Brief
3.26, 1	A	9-30	Transmittal
3.27, 1	B	10-14	Transmittal
3.28, 1-9	B	10-14	Orig. Brief, Bank
3.29, 1-2	D	11-3	Affirmed Lift
3.30, 1	D	11-10	Judgment Affd.
3.31, 1	B	11-12	Notice, Appeal
3.32, 1	F	11-13	Docket
3.33, 1-5	F	11-14	Instructions

1987

3.34, 1	F	1-23	Loc. R. 42.3 Inst.
3.35, 1	F	1-23	Records Return

§ 4. Motion to Recuse

1986

4.1, 1-8	A	8-15	Motion, Recuse
4.2, 1-4	A	9-4	Motion, Instruction
4.3, 1-4	C	9-4	Trans. To D.C.
4.4, 1	D	9-12	Min. Entry, Denied
4.5, 1	A	9-19	Notice, Appeal
4.6, 1	D	9-22	Notice, D.C.
4.7, 1-2	A	9-26	Design., Inems App.
4.8, 1	D	9-29	Notice, Docket
4.9, 1	D	9-30	Trans.
4.10, 1	A	10-7	Corr.
4.11, 1	A	10-7	Corr.

4.12, 1-4	F	10-7	Instructions
4.13, 1-12	A	10-28	Brief
4.14, 1-71	B	11-24	Brief

1987

4.15, 1-4	F	1-5	Interlocutory
4.16, 1	F	1-27	Record Trans.

§ 5. Time Extension Request

1986

5.1, 1-2	A	8-15	Motion, Time Ext.
5.2, 1	B	8-19	Corr.
5.3, 1-3	B	8-20	Opposition
5.4, 1	B	9-3	Bank To Bankr. J.
5.5, 1	C	9-17	Notice, Hearing
5.6, 1	B	9-26	Corr. Stayed
5.7, 1	C	10-1	Notice, Cancellation

1987

5.8, 1-3	B	1-6	Bank to Bankr. J.

§ 6. Bank's New Motion to Convert

1987

6.1, 1	B	1-20	Trans.
6.2, 1-2	B	1-21	New Motion, Convert
6.3, 1	B	1-21	Notice
6.4, 1	B	1-26	Docket Request
6.5, 1	C	2-6	Notice
6.6, 1-47	T	3-4	Transcript
6.7, 1	B	3-5	Trans.
6.8, 1-2	B	3-6	Motion, Refus.
6.9, 1	C	3-9	Order
6.10, 1-2	C	3-12	Motion
6.11, 1	C	3-19	Notice To Creditors
6.12, 1-2	B	4-3	Motion, Convert
6.13, 1	C	4-4	Notice
6.14, 1-2	B	4-8	Mtn. Withdrawal

§ 7. Motion to Enroll Counsel

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7.1, 1	C	3-9	Order, Enroll C.
7.2, 1	C	3-12	Order, Enroll, 2nd.
7.3, 1	A	5-28	Letter, Repl. C.
7.4, 1-3	C	5-29	Mtn. Withdraw
7.5, 1-3	C	6-1	Order

§ 8. Mills Tract Suit

1987

8.1, 1-8	A	2-27	Mills Tract-Jury
8.2, 1	B	3-5	Corr.
8.3, 1-4	B		Answer
8.4, 1-2	B	3.22	Mtn., Refix Comp.
8.5, 1-2	B	3-23	Mtn., R 2004 Exm.
8.6, 1	C	3-31	Order
8.7, 1	C	4-1	Order, Refix
8.8, 1-6	B	4-3	Interrogatories

§ 9. Adjudications Removed

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9.1, 1-2	D	3-25	Order, Removal
9.2, 1-4	D	3.26	Petition, Removal
9.3, 1-2	A	4-8	Interrogatories
9.4, 1	A	4-9	Transmittal
9.5, 1	D	4-9	Notice, Pre-Trial
9.6, 1-2	B	4-15	Answer, Sheriff
9.7, 1-4	B	4-22	Answer, Bank
9.8, 1	A	4-22	Transmittal
9.9, 1	A	4-23	Mtn. Expedited H.
9.10, 1-3	A	4-23	Memorandum
9.11, 1	B	4-22	Motion, Cons4-8 Interrogatories

9.4, 1	A	4-9	Transmittal
9.5, 1	D	4-9	Notice, Pre-Trial
9.6, 1-2	B	4-15	Answer, Sheriff
9.7, 1-4	B	4-22	Answer, Bank
9.8, 1	A	4-22	Transmittal

9.9, 1	A	4-23	Mtn. Expedited H.
9.10, 1-3	A	4-23	Memorandum
9.11, 1	B	4-22	Motion, Consolidate
9.12, 1	B	4-22	Notice
9.13, 1	C	5-3	Order, Tel. Comp.
9.14, 1-3	B	5-5	Answer, Sheriff
9.15, 1	C	5-14	Ruling, Cons.
9.16, 1-5	C	5-14	Order, Fol. Comp.
9.17, 1	B	5-26	Stmt. Undisp. Facts
9.18, 1	B	5-26	Affidavit
9.19, 1-8	B	5-26	Memorandum
9.20, 1-2	B	5-26	Notice
9.21, 1-2	B	6-12	Motion, Continue
9.22, 1-2	C	6-16	Order
9.23, 1-2	B	6-22	Motion, Sheriff
9.24, 1-6	T	7-1	Transcript
9.25, 1-1	C	7-5	Judgment
9.26, 1-4	A	7-20	Motion, Rehearing
9.27, 1-2	B	7-27	Motion, Dismiss
9.28, 1	B	7-28	Notice
9.29, 1	C	7-28	Order
9.30, 1-2	A	8-4	Notice, Appeal
9.31, 1-3	A	8-13	Items Designation
9.32, 1	C	8-18	Memorandum
9.33, 1-2	B	8-18	Designation
9.34, 1	C	10-23	Clerk's Cert.
9.35, 1	D	10-30	Docket
9.36, 1-36	A	11-17	Original Brief
9.37, 1	B	11-19	Motion, Dismiss
9.38, 1	C	11-23	Order
9.39, 1-46	B	11-30	Brief, Bank
9.40, 1-2	B	12-1	Brief, Sheriff
9.41, 1-4	D	12-16	Minute Entry
9.42, 1	B	12.21	Statement Fee
9.43, 1	D	12-30	Order, Pay Rubin

1988

9.44, 1-2	A	1-28	Paid Fine To Rubin
9.45, 1	D	2-16	Judgment

§ 10. Bank's Disclosure and Plan

1987

10.1, 1-9	B	4-8	Proof of Claim
10.2, 1-7	B	4-8	Disclosure
10.3, 1-6	B	4-8	Plan of Reorg.

§ 11. Ordered Disclosure Hearing

1987

11.1, 1-2	C	4-17	Order, Hearing

§ 12. Mills Tract Suit by the Court

1987

12.1, 1-2	B	4-22	Motion, Consolidate
12.2, 1-2	B	4-22	Notice
12.3	C	4.29	Hearing, 2004 Ex.
12.4, 1	C	5-3	Order, Tel. Conf.
12.5, 1-4	A	5-4	Answer, Interrog.
12.6, 1	B	5-4	Notice, Transcript
12.7, 1	B	5-4	Notice, Reg. Trans.
12.8, 1	B	5-5	Trans. Interrog.
12.9, 1-13	B	5-5	Interrogatories
12.10, 1-2	A	5-6	Prod. of Doc. Rept.
12.11, 1	C	5-14	Ruling, Consolid.
12.12, 1-2	C	5-14	Order, Follow Comp.
12.13, 1	B	6-9	Demand Interrog.
12.14, 1	B	7-21	Demand, Reg.
12.15, 1-5	A	7-27	Reply
12.16, 1-3	B	7-28	Motion, Order
12.17, 1	B	7-28	Notice
12.18, 1	A	8-13	Trustee Seized File
12.19, 1-2	C	8-18	Notice
12.20, 1-3	C	8-18	Mtn. Trustee Settle
12.21, 1-4	A	8-19	Stmt., Comp., Prtst.
12.23, 1-3	A	8-25	Opposition, Order
12.24, 1-10	A	8-25	Opposition, Sett.
12.25, 1-11	A	8-26	Hearing
12.26, 1	A	8-26	Order
12.27, 1	C		Notice
12.28, 1	C		Order

12.29	H		Hearing
12.30, 1	C	9-9	Judgment
12.31, 1	C	9-16	Ord. Dis. W. Prej.
12.32, 1-3	C	9-16	Mtn. Rehearing
12.33, 1	C	9-21	Ord., Rehg. Denied
12.34, 1-2	C	9-21	Reasons, Denial
12.35, 1	A	9-22	Notice, Appeal
12.36, 1	C	12-31	Trans. Appeal

1988

12.37, 1	D	8-9	Order, w/Prej.
12.38, 1	D	8-10	Judg., w/Prej.

§ 13. Ordered Disclosure and Plan

1987

13.1, 1-5	A	4-24	Disclosure
13.2, 1-3	A	4-24	Plan
13.3, 1-2	C	4-30	Order, Hearing

§ 14. Conversion Ordered

1987

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1987

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1987

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1987

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1987

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1987

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12. OPINIONS AND JUDGMENTS SCHEDULE

1986

Stipulated Judgment: 19th Dist. Ct. La. (3-17-86)

Creditors (Mills Tract): Notice, Bankr. J. (4-15-86), (R 2.1); Order, Bankr. J. (4-15-86), (R 2.2); and Preliminary, Bankr. J. (4-15-86), (R 2.3, 1-2)

Lifting of the Stay: Order, Bankr. J. (6-11-86). (R 3.11)

Stay Appeal Dismissal Withdrawn: Aff'd. mem. (allowed bank w.o. prejudice), D. J. (7-18-86). (R 3.21)

Recusal Renounced: Trans. w. recm., Bankr. J. (9-4-86), (R 4.3, pp. 1-4); Trans aff'd. (tacit), C. J. (9-12-86), (R 4.4); Aff'd. mem. (denying), D. J. (9-12-86). (R 4.4)

Time Extension Hearing: Notice, Bankr Ct. (9-17-86). (R 5.5)

Cancellation Extension Hearing: Cancln. notice, Bankr. Ct. (10-1-86). (R 5.7)

Stay Lifting Aff'd: Aff'd mem., D. J. (11-3-86), (R 3.29, 1-2); Jud., D. J. (11-10-86). (R 3.30)

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Recusal, Interlocutory Dismissal: Dismissal int., 5th Cir. (1-5-87). (R 4.15, 1-2)

Bank Abandoned Claim: Rptd. I.R.S., Bank (1-6-87)

Bank Abandoned Claim: Rptd. I.R.S., Bank (1-21-87)

Stay Lifting, 5th Cir. Lcl. R 42.3: Dismissal, 5th Cir. (1-23-87). (R 3.34)

Hearing Set on Motion to Convert: Notice, Bankr. Ct. Clk. (2-6-87). (R 6.5)

Hearing, Motion to Convert: Ackgt., Bankr. Ct. Clk. (3-4-87)

Ordered Counsel Enrolled 3-4-87: Order, Bankr. J. (3-9-87). (R 6.9)

Ord. Alleged Fin. Reqmt. on 3-10-87: Order, Bankr. J. (3-9-87). (R 6.9)

Ordered To Show Revenues on 4-24-87: Order, Bankr. J. (3-9-87). (R 6.9)

Ord. Disclosure Stmt. on 4-24-87: Order, Bankr. J. (3-9-87). (R 6.9)

Ordered Reorganization on 4-24-87: Order, Bankr. J. (3-9-87). (R 6.9)

Ordered Hearing on 5-12-87: Order, Bankr. J. (3-9-87). (R 6.9)

Granted Bank's Delay to 5-18-87: Order, Bankr. J. (3-12-87). (R 6.10, 1-2)

Ordered Counsel Enrolled 3-12-87: Order, Bankr. J. (3-12-87). (R 7.2)

Ordered Adv. 87-58 Removed Ex Parte: Order, ex parte (adjudications removed from state judicial system), D. J. (3-25-87); (R 9.1, 1-2); Petn. acpt., ex parte, D. J. (3-26-87). (R 9.2, 1-4)

Ordered Rule 2004 Exam: Order, Bank. J. (3-31-87). (R 8.6)

Ord. Refix. Pre-Trial Adv. 87-38: Order, Bankr. J. (4-1-87). (R 8.7, 1-2)

Ackgt. Bank Motion to Convert: Ackgt. tacit., Bankr. Ct. Clk. (4-3-87)

No Financial Information Msg.: Ackgt., Bankr. Ct. Clk. (4-8-87). (R 6.14, 1-2)

Bank Conversion Motion Withdrawn: Ackgt., Bankr. Ct. Clk. (4-8-87). (R 6.14, 1-2)

Bank, Proof of Claim: Ackgt., Bankr. Ct. Clk. (4-8-87). (R 10.1, 1-9)

Pre-Trial Conf. Set Adv. 87-58: Notice, Bankr. Ct. Clk. (4-9-87). (R 9.5)

Bank Disclosure: Ackgt., Bankr. Ct. Clk. (4-13-87). (R 10.2, 1-7)

Bank, Reorganization Plan: Ackgt., Bankr. Ct. Clk. (4-13-87). (R 10.3, 1-7)

Hearing, Bank Disclosure: Order, Bankr. J. (4-17-87). (R 11.1)

Disclosure Filed as Ordered: Ackgt., Bankr. Ct. Clk. (4-24-87). (R 13.1, 1-5)

Plan Filed as Ordered: Ackgt., Bankr. Ct. Clk. (4-24-87). (R 13.2, 1-3)

Hearing, Ordered Disclosure: Order, Bankr. J. (4-30-87). (R 13.3, 1-2)

Set 5-14-87 Tel. Conf. Adv. 87-58: Order, Bankr. J. (5-3-87). (R 9.13)

Conv. Motion Withdrawal Denied: Order denying W., Bankr. J. (5-3-87). (R. 14.1)

Denied Adv. 87-58 Consolidation: Ruling, Bankr. J. (5-14-87). (R 9.15)

Order Adv. 87-58 After Tel. Conf.: Order, Bankr. J. (5-14-87). (R 9.16, 1-5)

Denied Adv. 87-38 Consolidation: Ruling, Bankr. J. (5-14-87). (R 12.11)

Order Adv. 87-38 After Tel. Conf.: Order, Bankr. J. (5-14-87). (R 12.12, 1-2)

Non Article III Conversion Ordered: Order, Bankr. J. (5-18-87). (R 14.6)

Disclosure Ordered Moot: Order, Bankr. J. (5-18-87). (R 14.6)

Order for Trustee: Order, Bankr. J. (5-20-87). (R 14.7)

Order of Conversion: Order, Bankr. J. (5-20-87). (R 14.8)

Notice, Replaced Attorney: Ackgt., Bankr. Ct. Clk. (5-28-87). (R. 7.3)

Meeting of Creditors: Order, Bankr. J. (5-29-87). (R 15.2)

Allowed Attorney Withdrawal: Order, Bankr. J. (6-1-87). (R 7.5, 1-3)

Notice by Trustee: Notice, Tr. (6-2-87). (R 15.3)

Rebuttal to Stay Lifting: Ackgt., Bankr. Ct. Clk. (6-3-87). (R 3.7, 1-8)

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Summary Dismissal Adv. 87-58: Order hearing, Bankr. J. (6-16-87). (R 9.22, 1-2)

Proposed Dismissal of Case: Notice, Bankr. Ct. Clk. (6-24-87). (R 15.9)

Summary Dismissal Adv. 87-58: Judgt., Bankr. J. (7-5-87). (R 9.25)

Ex Parte Rule to Show Cause: Order, D. J. (7-8-87). (R 14.13)

Compliance, Rule to Show Cause: Ackgt., D. Ct. Clk. (7-16-87). (R 14.14)

Compliance, Rule To Show Cause: Ackgt. hearing, D. J. (7-17-87). (R 14.15)

Show Cause Hearing Tape: Record cert., D. Ct. Clk. (7-17-87). (R 14.15)

Fraudulent Stmt. of Show Cause Hg.: Min. entry, D. J. (7-17-87). (R 14.16, 1-2)

Denial Rehearing Adv. 87-58: Order, Bankr. J. (7-28-87). (R 9.29)

Ruling, Continue Adv. 87-38 Hgs.: Min. entry, Bankr. J. (8-26-87). (R 12.26)

Affirmation of Conversion: Min. entry, D. J. (8-31-87). (R 14.21, 1-2)

Denial of Appeal Brief: Tacit., D. J. (8-31-87). (R 14.21, 1-2)

Trustee Paid to Settle Adv. 87-38: Order, Bankr. J. (9-9-87). (R 12.30)

Denial Case Dismissal: Ruling, Bankr. J. (9-9-87). (R 15.15)

Judgment Conversion: Aff'd., D. J. (9-11-87). (R 14.22)

Rescheduled Meeting of Creditors: Notice, Bankr. Ct. Clk. (9-14-87). (R 15.14)

Rescheduled Hearing on Discharge: Notice, Bankr, Ct. Clk. (9-14-87). (R 15.14)

Scheduled Discharge Hearing: Notice, Bankr. Ct. Clk. (9-14-87). (R 15.14)

Adv. 87-38 Dismissal W. Prejudice: Order, Bankr. J. (9-16-87). (R 12.31, 1-2)

Adv. 87-38 Rehearing Denied: Order, Bankr. J. (9-21-87). (R 12.33)

Adv. 87-38 Rehearing Denied: Reasons, Bankr. J. (9-21-87). (R 12.34, 1-2)

Writ of Mandamus Answer: Min. entry, D. J. (9-22-87). (R 14.27)

Writ of Mandamus Denied: Order, 5th Cir. (9-24-87). (R 14.29)

Motion Denial, Adv. 87-58: Order, Bankr. J. (10-2-87). (R 17.2)

Motion Denial, Adv. 87-58: Reasons, Bankr. J. (10-2-87). (R 17.3, 1-3)

Motion Denial, Adv. 87-38: Order, Bankr. J. (10-2-87). (R 17.4)

Motion Denial, Adv. 87-38: Reasons, Bankr. J. (10-2-87). (R 17.5, 1-3)

Motion Denial, Case 86-495: Order, Bankr. J. (10-2-87). (R 17.6)

Motion Denial, Case 86-495: Reasons, Bankr. J. (10-2-87). (R 17.7, 1-3)

Motion Denied, Fraud on the Court: Reasons, Bankr. J. (10-21-87). (R 19.4, 1-4)

Motion Denied, Fraud on the Court: Order, Bankr. J. (10-21-87). (R 19.4, 5)

Summons, C. Apptd. Trustee: Order, Bankr. J. (10-21-87). (R 21.4, 1-6)

Appellant Enjoined: Order, Bankr. J. (11-4-87). (R 21.7)

Decision to Enjoin: Reasons, Bankr. J. (11-10-87). (R 21.8, 1-6)

Motion, Dismiss Appeal Denied: Min. Entry, D. J. (11-23-87). (R 9.38)

Denial, Set Aside Judgt. Adv. 87-38: Min. Entry, Bankr. J. (11-25-87). (R 18.3)

Denial, Set Aside Judgt. Adv. 87-38: Order, Bankr. J. (12-15-87). (R 18.4)

Affirmation, Adv. 87-38 Set Aside: Min. Entry, D. J. (12-16-87). (R 9.41, 1-4)

Order, Five Day Answer to Fines: Min. Entry, D. J. (12-16-87). (R 9.41, 1-4)

Assessment of Fines, Adv. 87-38: Order, D. J. (12-30-87). (R 9.43)

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Judgment, Appeal of Conversions: Aff'd., 5th Cir. (2-11-88). (R 14.45, 1-4)

Judgment, Adv. 87-58: Aff'd., D. J. (2-16-88). (R 12.37)

Denial, Petition for Rehearing: Order, 5th Cir. (4-15-88). (R 14.53)

Motion, Stay of Mandate Denied: Order, 5th Cir. (4-29-88). (R 14.60, 1-2)

Dismissal, Rehearing W. Prej.: Order, D.J. (8-9-88). (R 12.38)

Dismissal, Rehearing W. Prej.: Judgt., D.J. (8-10-88). (R 12.39)

13. TEXT OF PROVISIONS CITED

U.S. Const., Art. I, § 8, Cl. 8

To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

U.S. Const., Art. III, § 2, Cl. 1.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; - to all Cases affecting Ambassadors, other public Ministers and Consuls; - to all cases of admiralty and maritime Jurisdiction; - to Controversies to which the United States shall be a Party; - to Controversies between two or more States; - between a State and Citizens of another State; - between Citizens of different States; - between Citizens of the same State claiming Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

U.S. Const., Art. III, § 2, Cl. 2

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

U.S. Const., Art. III, § 2, Cl. 3

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at Place or Places as the Congress may by Law have directed.

U.S. Const., Art. IV, § 1

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

U.S. Const., Amend. IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const., Amend. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a

witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const., Amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

U.S. Const. Amend. VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

U.S. Const., Amend. VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Const., Amend. X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

U.S. Const., Amend XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

11 U.S.C. § 362(a)

Automatic Stay

(a) Except as provided in subsection (b) of this section a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(a)(3)), operates as a stay, applicable to all entities, of -

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;

11 U.S.C. § 362(c)

(c) Except as provided in subsections (d), (e), and (f) of this section -

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate; and

(2) the stay of any other act under subsection (a) of this section continues until the earliest of -

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, or 13.

11 U.S.C. § 362(d)

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay -

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or

(2) with respect to a stay of an act against property under subsection (a) of this section, if -

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization.

11 U.S.C. § 362(f)

(f) Upon request of a party in interest, the court, with or without a hearing, shall grant such relief from the stay provided under subsection (a) of this section as is necessary to prevent irreparable damage to the interest of an entity in property, if such interest will suffer such damage before there is an opportunity for notice and a hearing under subsection (d) or (e) of this section.

11 U.S.C. § 362(g)

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section -

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues.

11 U.S.C. § 362(h)

(h) An individual injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages.

11 U.S.C. § 704

Duties of Trustee

The trustee shall-

(1) collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest;

(2) be accountable for all property received;

(3) ensure that the debtor shall perform his intention as specified in section 521(2)(b) of this title;

(4) investigate the financial affairs of the debtor;

(5) if a purpose would be served, examine proofs of claims and object to the allowance of any claim that is improper;

(6) if advisable, oppose the discharge of the debtor;

(7) unless the court orders otherwise, furnish such information concerning the estate and the estate's administration as is requested by a party in interest;

(8) if the business of the debtor is authorized to be operated, file with the court and with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation, periodic reports and summaries of the operation of such business, including a statement of receipts and disbursements, and such other information as the court requires; and

(9) make a final report and file a final account of the administration of the estate with the court.

11 U.S.C. § 1112(b)

Conversion or Dismissal

(b) Except as provided in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including -

(1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;

(2) inability to effectuate a plan;

(3) unreasonable delay by the debtor that is prejudicial to creditors;

(4) failure to propose a plan under section 1121 of this title within any time fixed by the court;

(5) denial of confirmation of every proposed plan and denial of a request made for additional time for filing another plan or a modification of a plan;

(6) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;

(7) inability to effectuate substantial consummation of a confirmed plan;

(8) material default by the debtor with respect to a confirmed plan; or

(9) termination of a plan by reason of the occurrence of a condition specified in the plan.

11 U.S.C. § 1112(c)

Conversion or Dismissal

(c) The court may not convert a case under this chapter to a case under chapter 7 of this title if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.

11 U.S.C. § Bankr. R. 1107

Rights, Powers, and Duties of Debtor in Possession

(a) Subject to any limitations on a trustee serving in a case under this chapter, and to such limitations or conditions as the court prescribes, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all the functions and duties, except the duties specified in sections 1106(a)(2), (3), and (4) of this title, of a trustee serving in a case under this chapter.

(b) Notwithstanding section 327(a) of this title, a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person's employment by or representation of the debtor before the commencement of the case.

11. U.S.C. § Bankr. R. 6009

Prosecution and Defense of Proceedings by Trustee or Debtor in Possession

With or without court approval the Trustee or debtor in possession may prosecute or may enter an appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate before any tribunal.

11 U.S.C. § Bankr. R. 9003

Prohibition of Ex Parte Contacts

Except as otherwise permitted by applicable law, any party in interest and any attorney, accountant, or employee of a party in interest shall refrain from ex parte meetings and communications with the bankruptcy judge concerning matters affecting a particular case or proceeding.

Local Bankr. R. 2.7(B)

Failure to Attend Section 341 Meeting

A case will be dismissed for failure of the debtor to attend a § 341 meeting unless the Court determines to the contrary upon timely motion by the debtor and a hearing.

28 U.S.C. § 144

Bias or Prejudice of Judge

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a

personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

28 U.S.C. § 157(a)

Procedures

Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

28 U.S.C. § 455

Disqualification of Justice, Judge, or Magistrate

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or per-

sonal knowledge of disputed evidentiary facts concerning the proceeding.

(2) Where in private practice he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial

interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purpose of this section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceedings could substantially affect the value of the securities.

(e) No justice, judge, or magistrate shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

28 U.S.C. § 1334(c)(1)

Bankruptcy Cases and Proceedings

Nothing in this section prevents a district court in the interest of justice, or in the interest of comity with State courts or respect for State law, from abstaining from hearing a particular proceeding arising from title 11 or arising in or related to a case under title 11.

28 U.S.C. § 1334(c)(2)

Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction. Any decision to abstain made under this subsection is not review-

able by appeal or otherwise. This subsection shall not be construed to limit the applicability of the stay provided for by section 362 of title 11, United States Code, as such section applies to an action affecting the property of the estate in bankruptcy.

28 U.S.C. § 1651

Writs

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

28 U.S.C. § 1657(a)

Priority of Civil Actions

(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefore is shown. For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual

context that indicates that a request for expedited consideration has merit.

Fed. R. Civ. P. 9(b)

Fraud, Mistake, Condition of the Mind

In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

Fed. R. Civ. P. 11

Signing of Pleadings, Motions, and Other Papers; Sanctions

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individiual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is

not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Fed. R. Civ. P. 35(a)

Order for Examinations

When the mental or physical condition (including the blood group) of a party, or of a person in the cutody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a physician or to produce for examination the person in his custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

Fed. R. Civ. P. 59(a)(2)

New Trials; Amendment of Judgments

In any action tried without a jury, for any of the reasons for which rehearings have heretofore been granted in suits in equity in the courts of the United States. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

Fed. R. Civ. P. 60(b)

Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is not longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than

one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Title 28, U.S.C., § 1655, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

La. Code Civ. P. art. 853

Caption of Pleadings; Adoption by Reference; Exhibits

Every pleading shall contain a caption setting forth the name of the court, the title and number of the action, and a designation of the pleading. The title of the action shall state the name of the first party on each side with an appropriate indication of other parties.

A statement in a pleading may be adopted by reference in a different part of the same pleading or in another pleading in the same court. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

La. Code Civ. P. art 1871

Declaratory Judgments; Scope

Courts of record within their respective jurisdiction may declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for; and the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The declaration shall have the force and effect of a final judgment or decree.

La. Code Civ. P. art. 2004

Annulment for Vices of Substance; Peremption of Action

A final judgment obtained by fraud or ill practices may be annulled.

An action to annul a judgment on these grounds must be brought within one year of the discovery by the plaintiff in the nullity action of the fraud or ill practices.

La. Code Civ. P. art. 2251

Execution Only In Trial Court; Appellate Court Judgment

A judgment can be executed only by a trial court.

A party seeking to execute a judgment of an appellate court must first file a certfied copy with the clerk of the trial court. This filing may be made without prior notice to the adverse party.

La. Code Civ. P. art. 2254

Execution By Sheriff; Return

The sherif shall proceed promptly to execute the writ and make a return to the clerk who issued it, stating the manner in which it was executed.

La. Code Civ. P. art. 2291

Money Judgment; Fieri Facias

A judgment for the payment of money may be executed by a writ of fieri facias directing the seizure and sale of property of the judgment debtor.

La. Code Civ. P. art. 2297

Allias Fieri Facias

After a writ of fieri facias has been returned unsatisfied, another writ of fieri facias may be issued.

La. Code Civ. P. art. 2331

Publication Of Notice Of Sale

Notice of the sale of property under a writ of fieri facias shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. The court may order additonal publications.

The sheriff shall not order the advertisement of the sale of the property seized until three days, exclusive of holidays, have elapsed after service on the judgment debtor of the notice of seizure, as provided in Article 2293.

La. Code Civ. P. art. 2332

Appraisal

The property seized must be appraised according to law prior to the sale.

La. Code Civ. P. art. 2333

Sale Of Perishable Property

The court, at the request of a party, may order the immediate sale at public auction, without advertisement or appraisement, of property that is perishable and subject to loss or deterioration pending compliance with the usual formalities. Notice of the time and place of the sale shall be given to all parties. The property shall be sold for cash to the highest bidder.

La. Code Civ. P. art. 2334

Reading Of Advertisement And Certificates

At the time and place designated for the sale, the sheriff shall read aloud the advertisement describing the property, and shall read aloud a mortgage certificate and any other certificate required by law.

La. Code Civ. P. art. 2335

Superior Mortgage Or Privilege

The sheriff shall announce that the property is to be sold for cash subject to any mortgage, lien, or privilege thereon superior to that of the seizing creditor.

La. Code Civ. P. art. 2336

Minimum Price; Second Offering, If Bid Is Less Than Two-Thirds Of Appraised Value

The property shall not be sold if the price bid by the highest bidder is less than two-thirds of the appraised value. In that event, the sheriff shall re-advertise the sale of the property in the same manner as for an original sale, and the same delay must elapse. At the second offering, the property shall be sold for cash for whatever it will bring, except as provided in Article 2337.

La. Code Civ. P. art. 2337

Price Insufficient To Discharge Superior Privileges Property Not Sold

If the price offered by the highest bidder at the first or subsequent offering is not sufficient to discharge the costs of the sale and the mortgages, liens, and privileges superior to that of the seizing creditor, the property shall not be sold.

La. Code Civ. P. art. 2338

Judgment Creditor Having Superior Privilege; Price Insufficient To Satisfy Inferior Mortgage

If the mortgage, lien, or privilege of the seizing creditor is superior to other mortgages, liens, and privileges on the property, he may require that the property be sold, even though the price is not sufficient to satisfy his or the inferior mortgages, liens, and privileges.

La. Code Civ. P. art. 2339

Judgment Debtor And Creditor May Bid

The judgment debtor and the seizing creditor may bid for the property.

La. Code Civ. P. art. 2340

Payment Of Debt Prior To Adjudication

The sale of the property may be prevented at any time prior to the adjudication by payment to the sheriff of the judgment, with interest and costs.

La. Code Civ. P. art. 2342

Act Of Sale By Sheriff

Within five days after the adjudication, the sheriff shall pass an act of sale to the purchaser, in the manner and form provided by law.

The act of sale adds nothing to the force and effect of the adjudication, but is only intended to afford proof of it.

La. Code Civ. P. art. 2343

Sheriff's Return After Sale

The sheriff shall make a signed return to the clerk who issued the writ, showing that all formalities have been complied with and stating the manner in which the writ was executed, a description of the property sold, the name of the purchaser, the purchase price, and the disposition thereof.

La. Code Civ. P. art. 2591

Proceedings Conducted With Rapidity

Summary proceedings are those which are conducted with rapidity, within the delays allowed by the court, and without citation and the observance of all the formalities required in ordinary proceedings.

La. Code Civ. P. art. 2635

Authentic Evidence Submitted With Petition

The plaintiff shall submit with his petition the authentic evidence necessary to prove his right to use executory process to enforce the mortgage or privilege. These exhibits shall include authentic evidence of:

(1) The note, bond, or other instrument evidencing the obligation secured by the mortgage or privilege;

(2) The authentic act of mortgage or privilege importing a confession of judgment; and

(3) A copy of a resolution of the board of directors, or other governing board of a corporation, authorizing the execution of a mortgage on its property, certified in accordance with the provisions of R. S. 13:4103; and

(4) All other documentary evidence recognized by law as authentic.

La. Code Civ. P. art. 2636

Authentic Evidence

The following documentary evidence shall be deemed to be authentic for purposes of executory process:

(1) The note, bond, or other instrument evidencing the obligation secured by the mortgage or privilege, paraphed for identification with the act of mortgage or privilege by the notary or other officer before whom it is executed;

(2) A certified copy of an authentic act;

(3) A certified copy of any judgment, judicial letters, or order of court;

(4) A copy of a resolution of the board of directors, or other governing board of a corporation, authorizing the execution of a mortgage on its property, certified in accordance with the provisions of R. S. 13:4103; and

(5) All other documentary evidence recognized by law as authentic.

La. Code Civ. P. art. 2723

Appraisal Of Property, Unless Waived

Prior to the sale, the property seized must be appraised in accordance with law, unless appraisal has been waived in the act evidencing the mortgage or privilege and plaintiff has prayed that the property be sold without appraisal, and the order directing the issuance of the writ of

seizure and sale has directed that the property be sold as prayed for.

La. Code Civ. P. art. 2771

When Deficiency Judgment Obtainable

The creditor may obtain a judgment against the debtor for any deficiency due on the debt after the distribution of the proceeds of the judicial sale only if the property has been sold under the executory proceedings after appraisal in accordance with the provisions of Article 2723.

La. Code Civ. P. art. 2772

Procedure To Obtain Deficiency Judgment

A creditor may obtain deficiency judgment against the debtor either by converting the executory proceeding into an ordinary proceeding as provided in Article 2644, or by a separate suit. In either case, the defendant must be cited, and all of the delays and formalities required in ordinary proceedings must be observed.

La. Code Civ. P. art. 2781

When Judgments May Be Made Executory By Other Courts

A judgment rendered in a Louisiana court may be made executory in any other Louisiana court of competent jurisdiction, if its execution has not been and may not be suspended by appeal.

La. Code Civ. P. art. 2782

Procedure; Exeuction Of Executory Judgment

A creditor wishing to have a judgment of a Louisiana court made executory, as provided in Article 2781, may file an ex parte petition complying with Article 891, with a certified copy of the judgment annexed, praying that the judgment be made executory. The court shall immediately render and sign its judgment making the judgment of the other Louisiana court executory.

The judgment thus made executory may be executed or enforced immediately as if it had been a judgment of that court rendered in an ordinary proceeding.

La. Code Civ. P. art. 3071

Definition Of Transaction Or Compromise

A transaction or compromise is an agreement between two or more persons, who, for preventing or putting an end to a lawsuit, and just their differences by mutual consent, in the manner which they agree on, and which every one of them prefers to the hope of gaining, balanced by the danger of losing.

This contract must be either reduced into writing or recited in open court and capable of being transcribed from the record of the proceeding. The agreement recited in open court confers upon each of them the right of judicially enforcing its performance, although its substance may thereafter be written in a more convenient form. (Amended by Acts 1981, No. 782, § 1.)

La. Code Civ. P. art. 3081

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A compromise entered into on documents which have since been found false, is null *in toto*.

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4013 Cypress
Zachary, LA 70791

June 22, 1988

Dear Mr. Rodriguez:

Permit me a few moments please, regarding our letter to the President on 22 April 1988, your letter of 24 May 1988, our letter of 1 June 1988, and our conversation on 17 June 1988. We desire to communicate certain facts, express certain thoughts, and resolve what your position is with certainty.

You indicated in your letter of 24 May 1988 that your response was essentially a statement of reaction by the United States Attorney for the Middle District of Louisiana. During our conversation on 17 June 1988, you further informed us that you originally delegated our letter of 22 April

1988 to your subordinates. We assume you received our letter direct from the White House, and your subordinates mailed it to Baton Rouge. No one has yet talked to us. The reactions are false and misleading, our life continues to be in great danger, and the circumstances continue to be fraudulently suppressed. Can it be said that a responsible response has occurred? Does the reaction express what the President would have intended, in this and similar instances, if he were informed?

No problem exists between me and the F.B.I., as you suggested during our conversation on 17 June 1988. If any problem exists, it is between you and me. No one else can be blamed. We find no reason for you and me to have a problem.

Mr. Grimsley, Special Agent for the F.B.I. office in Baton Rouge, was in the process of scheduling our documentation presentation. He was very cordial,

professional, understood that a person with an accounting background would be required, and assured us that such a person was available from within his staff. We think Mr. Grimsley did everything that we had any right to expect, to afford us an opportunity to present the information. Mr. Grimsley must not be blamed - we asked him to wait.

The issues have not been presented to state and federal judicial systems as you suggested in your letter of 24 May 1988. The issues remain unlawfully suppressed, resulting from our being: (1) falsely arrested and maintained as such, since 17 July 1987; (2) threatened with immediate incarceration, plus a $100,000 cash fine; (3) falsely charged with criminal acts, including the obstruction of justice; (4) determined that we were "unable to proceed rationally," and without a required hearing being held pursuant to Fed. R. Civ.

P. 35 (a); (5) fined for attempting to present information pursuant to Fed. R. Civ. P. 60 (b); and (6) sanctioned with threats of incarceration against any attempt to appeal or talk to anyone. Our petition to the Fifth Circuit for a Writ of Mandamus, to expose the unlawful acts, was denied.

We stated with particularity by our letter of 1 June 1988, the extent to which you were misled regarding our attempts to talk with the United States Attorney's office from commencement through 28 February 1986. In point of fact, we met with Mr. James Stanley Lamella on two occasions. During the latter, Mr. Lamella requested, and we gave him one particular petition copy that we filed into the Nineteenth Judicial District Court of Louisiana. This petition is currently fraudulently suppressed by the above noted acts.

You should also be aware that former District Attorney Ossie Brown, and the current District Attorney Bryan Bush of East Baton Rouge Parish, have both continually denied reviews of the circumstances. The obvious question - why?

David Rubin, attorney (son of Justice Rubin), was allowed to transfer the above noted petition into the federal judicial system by a mere showing of a certified true copy. Concomitant therewith, was the unlawful determination that we were: "Unable to proceed rationally," and without a required hearing being held pursuant to Fed. R. Civ. P. 35 (a). These acts represent unconstitutional deprivations, unconstitutional federal preemption of state law, and unlawful vesting of subject matter jurisdiction; for the intended purpose of suppressing criminal acts by prominent persons.

The Minute Entry and related documents executed by District Judge Frank J. Polozola on 17 July 1987, regarding the Show Cause Hearing held 17 July 1987 in the District Court are false and fraudulent documents. The tapes of the Show Cause Hearing should confirm the circumstances of that hearing. The intensity cannot be adequately explained. Judge Polozola is fraudulently suppressing constitutional deprivations, fraud, and corruption by many prominent persons. Of primary importance, is the suppression of the factual outline of the circumstances found in our Compliance with Rule To Show Cause, filed in the District Court on 16 July 1987.

Judge Polozola summarily charged that we committed acts against: former United States Senator Russell Long; Judge E. Gordon West; and Robert L. Kleinpeter, Esq.; during the 17 July 1987 hearing. Do you agree that we should have been:

(1) allowed criminal attorneys, (2) known specifically what the charges against us are, (3) allowed to face our accusers in a proper court of law, and (4) allowed a jury? If you agree, should you deny us the protection to freely present the documentation to the F.B.I.?

Our wife was also summarily sanctioned by Judge Polozola, when she was not a party to any hearing before Judge Polozola, did not utter a single word, and only sat with her husband. Participation by David Rubin, Attorney; Edna Latchem, Attorney; and Derren Johnson, Attorney; represent unlawful acts including perjury by statements and acquiescence.

United States Senator J. Bennet Johnston will, in all probability, ascend shortly to the position of Senate Majority Leader. The Senator is intimately involved with the issues now fraudulently suppressed. The Senator's involvement relates to

his association with our former partner, W.H. LeBlanc, Jr. The Senator's involvement with the suppression should be known, prior to his ascendancy.

How does our nation's space related facilities at: (1) Madrid, Spain; (2) Canberra, ACT, Australia; (3) Newport Beach, California; (4) Alice Springs, Northern Territory, Australia; and (5) Cedar Rapids, Iowa; form a consituent of Judge Polozola's fraudulent suppression? Why Judge Polozola has reason to suppress this information is important to know.

Businesses to which the fraudulent suppression relates are: (1) Baton Rouge Supply Co., Inc.; (2) Capital Builders Supply Co., Inc.; (3) Capital Builders Distributors, Inc.; (4) Barkle, Inc.; (5) Barksdale and LeBlanc; (6) Eugene Barksdale, Contractor; (7) J.L. Barksdale Livestock; (8) Barksdale Brothers Corporation; (9) Barksdale Brothers Equipment

Corporation; (10) Barksdale Brothers Development Corporation; (11) Irene Property (Tuscaloosa Trend); (12) Livingston Parish Property (Tuscaloosa Trend); (13) Future Revenues, Inc.; (14) City National Bank Stock; (14) Livestock Center Development; (16) Computer Center Development; (17) Barksdale Brothers Livestock Investments; (18) Grand Champion Feeds; (19) Grand Champion trademark; (20) Grand Champion with Logo trademark; (21) Inventions, designs, and related documentation by J.L. Barksdale; (22) Joint venture interests; and (23) other interests.

Many years of fraudulent accounting and false tax reports by Hawthorn, Waymouth, and Carroll, C.P.A.; Carl L. Hancock, C.P.A.; and other members of the firm Hawthorn, Waymouth, and Carroll, C.P.A. The issues also involve fraudulent loans as obtained through City National Bank of Baton Rouge. Ashton Stewart,

Attorney, was successful in suppressing the issues before the State Board of Certified Public Accountants of Louisiana in 1976. This was accomplished through board member Leon K. Poche, C.P.A.

Winston W. Riddick, Attorney, and currently Chief Assistant to the Attorney General of Louisiana, formerly represented us and was originally associated with Donald Gallant, C.P.A. Later Riddick disassociated with Gallant, associated with Dr. Hilary Zaunbracher, C.P.A. and: (1) suppressed the constituents' of fraud; (2) sought release of W.H. LeBlanc, Jr. from all criminal acts; and (3) abandoned our interests with Talmadge Bickham, Jr. and Marie McCaulley, in contravention of his obligations to us. These unlawful acts by Riddick and others, are currently suppressed by Judge Polozola.

Former board chairman, Herman J. Lowe of the American Institute of Certified

Public Accountants, is knowledgeable regarding certain factors of the suppression.

The American Institute of Certified Public Accountants is aware of certain constituents of the suppressed circumstances. Correspondence with the Institute commenced in 1976, continued through 1981, and remains pending.

Our rejection of demands to agree to deny black citizens their constitutional guarantees to freely live and enjoy our Mills Land Tract Development in Zachary, Louisiana was the catalyst that caused the Bank of Zachary to abandon its contract with us. Also involved is the unlawful and clandestined abuse of Housing and Urban Development funds, resulting from arbitrary and capricious acts by elected officials and others. The subtle suppression of these constituents are additional reasons motivating Judge Polozola's unlawful acts.

Ancillary to the above, and further motivating Judge Polozola, is the suppression of related circumstances and unlawful acts by: (1) Russell Bankston, Attorney, who concurrently served as bank board member, attorney for the bank, City Judge, attorney for the land owner (Gilbert Mills), and alleged to represent our interest; (2) Gordon Kean, Attorney, and former law partner of Justice Rubin, Judge Parker and Judge Steen (Sanders, Miller, Downing, Rubin, and Kean), and who represents relatives of Russell Bankston and other bank board members adverse to our interests, and before his former law partner Judge Parker and Judge Steen; (3) Foster Sanders III, Attorney, and alleged to be a close relative of the founder of the firm Sanders, Miller, Downing, Rubin, and Kean; (4) Neil D. Sweeney, Attorney, and associate of Gordon Kean, and also before Judge Parker and

Judge Steen; (5) Al Moreau, Jr., brother to State District Judge Douglas Moreau; (6) State District Judge Douglas Moreau; and (7) Karl Cavanaugh, Attorney, who alleged to represent our interests; but entered into a stipulated judgment with the bank (represented by David Rubin), adverse to our interests, before Judge Moreau, without any authentic documentation to support the bank's claim, and failed to inform us of his affiliation with the above noted firm (Sanders, Miller, Downing, Rubin, and Kean).

David Rubin, Attorney, (son of Justice Rubin), represents: (1) the Bank of Zachary; (2) its president and board of directors member Harry Morris, Jr.; (3) its board of directors member Herman Moyese, Jr. (also chairman of the board at City National Bank); (4) attorney and board of directors member Russell Bankston; (5) board of directors member David Mills; and

opposes our interests before Judge Parker and Judge Steen, who was his father's former partners (Sanders, Miller, Downing, Rubin, and Kean).

Michael Rubin, Attorney (son of Justice Rubin), represents our sister, Mrs. Hugh Rawls of Houston, Texas and before Judge Parker and Judge Steen. Joint efforts have continued since at least as early as 1976 to prevent our exposing the suppressed efforts by: (1) Mrs. Rawls; (2) W.H. LeBlanc, Jr.; (3) H.V. Carroll, C.P.A.; (4) Hawthorn, Waymouth, and Carrol, C.P.A.; and (5) James Alton Barksdale. Issues required to be accounted therein also relate to Justice Rubin, Judge Parker, and Judge West of the local judiciary. Other former partners of Justice Rubin also oppose our interests before Judge Parker and Judge Steen.

Contrary to your assertion regarding our not being represented by any lawyers,

we think you were again misinformed. You are expressing a fallacy created by Judge Polozola, Judge Steen, Judge Moreau (State Judge), Russell Bankston (City Judge), David Rubin, and Karl Cavanaugh. We were the victim of a stipulated judgment entered into without any authentic documentation, for the purpose of causing an automatic judicial mortgage to attach against all of our property and even prevented the sale of our home. This was for the intended purpose of assuring that we would have no legal assistance to pursue the suppressed fraud, etc., nor our claims against the Bank of Zachary and others. Legal work done thus far represents our efforts only, in learning what we could alone, in a few short weeks. The insinuation is always present that we have attorneys secretly aiding us, which is of course not true.

While we confess that we have very limited formal education, we have neverthe-

less been very successful in many fields, in many places, and with many people. Evidence of the extent of the financial success will be found in the suppressed fraud and corruption, which should reveal true earnings equal to most in the Baton Rouge area, when accounted. We are not ignorant of the need for, nor have we ever failed to appreciate capable and educated people in all fields. For this reason, we saw to it that our two daughters recently graduated in banking with an average of 2.87 and 4.0 respectively. Indeed, we do not hate educated people - we love them.

We do not hold the entire American Judicial System in contempt, as Judge Polozola charged. We are intimately aware that we have great need for, and yearn for, capable legal representation. We are also aware that we were abandoned by the legal profession locally, and prefer to believe that a unique situation exists in Baton

Rouge. We think it is correct to believe that every lawyer and member of the judiciary involved is a graduate from Louisiana State University and is domiciled in the Baton Rouge area. Space does not permit mention of the great number involved.

We are mailing a copy of this letter to all parties noted, with a copy of our Petition for Rehearing in the United States Court of Appeals for the Fifth Circuit in Civil Action Number 87-3769. The petition was denied 15 April 1988, and the Fifth Circuit denied a stay of the mandate pending our petition for writ of certiorari on 29 April 1988. We do intend to file our Petition for Writ of Certiorari to the Supreme Court, but realize that our attempts may be ludicrous. We have no guide with which to compare. We do offer our cooperation, however, to any of the parties who wish to pursue any of the issues.

Considering the scope, gravity, and intensity of the circumstances, plus our concern for our life, we find it difficult to apologize for anything we have done. We followed the approach we considered proper. Had we intended to embarass your office or the President, we would not have sought the aid of your office. We cannot believe the President would knowingly deny our request, which is simply to be allowed to present the circumstances with documentation to the F.B.I. without being incarcerated. Our life is in great danger, and we refuse to die, leaving the details of the constitutional deprivations, fraud, and corruption unexposed. We were born in the Fifth Circuit, where can we go?

Sincerely,

Jerald Lee Barksdale

JLB/jmf

Manuel A. Rodriguez, Esq.
Legal Counsel
United States Department of Justice
Executive Office for
   United States Attorneys
Office of Legal Services
Washington, DC   20530

cc: The Honorable William S. Sessions,
      Director F.B.I.
    Mr. Edward Grimsley,
      Special Agent F.B.I.
    The Honorable Lawrence Gibbs,
      Commissioner I.R.S.
    The Honorable Samuel Pierce,
      Secretary H.U.D.
    The Honorable Buddy Roemer,
      Governor of LA
    American Bar Association
    Louisiana State Bar Association
    Mississippi State Bar Association
    State Bar of Texas
    American Institute of C.P.A.

4013 Cypress
Zachary, LA 70791

June 1, 1988

Manuel A. Rodriguez, Esq.
U.S. Department of Justice
Executive Office
for United States Attorneys
Office of Legal Services
Washington, DC 20530

Dear Mr. Rodriguez:

Your letter of May 24, 1988, in reply to my letter of April 22, 1988, to the President is acknowledged. Were I not fully prepared to document, I would not have requested the President to cause someone with authority to review the documentation.

You were misinformed about me. Perhaps you should inquire about my conversations and visits per: (1) Steve Mayo, U.S. Attorneys on 21 July 1977; (2) Dell Hahn, F.B.I. on 21 July 1977; (3) Mr. East, F.B.I. on 13 June 1983;

(4) Douglas Gonzales, U.S. Attorney (through his secretary) on 26 July 1985; and (5) James Stanley Lamella, Assistant U.S. Attorney on 28 February 1986.

On 22 June 1987, I attempted to reach the Attorney General and was informed that he was overseas. On 17 July 1987, I was falsely arrested by the District Judge, Frank J. Polozola.

Your suggestion that my claims were presented to state and federal judicial systems is not correct. David Rubin, Attorney and son of Judge Rubin of the Fifth Circuit, unlawfully transferred the litigation from the state to the federal judicial system by a mere showing of certified copies of a bankruptcy judge. This is an unconstitutional federal preemption of state law, coupled with an unlawful vesting of subject matter jurisdiction.

Circumjacent to the unlawful transfers, the Bankruptcy Judge unlawfully determined that Appellant was: (1) unable to proceed rationally and in a businesslike way; (2) not functionally the best suited to make decisions about his estate; and (3) an extremely litigous person; when no required hearing was held pursuant to F.R.C.P. 35 (a).

The truth about this case is to be found from hearing the tape of the Show Cause Hearing in the District Court on July 17, 1987, before the District Judge, Frank J. Polozola. The District Judge fraudulently concealed the truth of that hearing by causing a false and related minute entry and other reports to be entered into the record. Corruption by prominent persons is being covertly maintained and suppressed.

My constitutional guarantees are currently denied, while my property is fraudulently stripped away. My life is in

great danger. The District Judge is currently unlawfully maintaining me and my wife under a state of sanction, false charges, false arrest, and threats of immediate incarceration. I did properly petition for a writ of mandamus because my life is in great danger. The writ was denied.

The District Judge unlawfully charged me with acts against former U.S. Senator Russell Long, Judge E. Gordon West, and Robert L. Kleinpeter, Esq. Also, other charges by the District Judge are fabrications. My constitutional guarantees are denied; where I am not allowed to face my accusers and answer specific charges.

Futher, my constitutional guarantees are denied; where the Bankruptcy Judge denied my Petition for Injunction, and enjoined me on 10 November 1987 from appealing; or taking any further action to protect my life or property. I am currently under a state of false arrest by

the Bankruptcy Judge. I think relative significance attaches from the knowledge that the Bankruptcy Judge abruptly resigned from the Judiciary and left Louisiana; leaving me falsely arrested, and my life in great danger.

Knowledge of these facts preclude the alleged clear findings of fact at all levels. I cannot obtain the tape of the 17 July 1987 hearing, for I will be incarcerated and fined $100,000.

I talked with Mr. Grimsley of the F.B.I. Office in Baton Rouge yesterday, 31 May 1988. During the process of scheduling for documentation presentation, I inquired if protection could be extended to me against arrest for meeting, as I am presently sanctioned against meeting or appealing. This was one reason I wrote the President about this bizarre situation. The District Judge has fined me once, in the form of a cash payment to David Rubin,

Attorney, for attempting to document pursuant to F.R.C.P. 60 (b).

I understood when Mr. Grimsley told me he could not extend the protection. At this point, I asked that we wait a few days, and allow me time to write your office and request the protection. Therefore, I seek the protection, and ask that you let me know promptly, as the deadline for filing my writ of certiorari to the Supreme Court is fast approaching.

Sincerely,

Jerald Lee Barksdale

JLB/jmf

cc: The Honorable William S. Sessions,
Director
Federal Bureau of Investigation
United States Department of Justice
Washington, DC 20535

Edward Grimsley, Esq.
Federal Bureau of Investigation
P.O. Box 3153
Baton Rouge, LA 70821

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE: CASE NO. 86-00495

JERALD LEE BARKSDALE

DEBTOR

BANK OF ZACHARY

MOVANT

VERSUS AN EXCEPTED MATTER

JERALD LEE BARKSDALE

DEBTOR IN POSSESSION

REBUTTAL TO MOVANT'S PETITION PURSUANT TO SECTION 362

NOW INTO COURT, not of choice, aware of our limitations, and determined not to embarrass the Court, comes Jerald Lee Barksdale, Debtor in Possession, domiciled in Zachary, Louisiana, and respectfully challenges movant as follows:

1.

Movant suggests unwarranted rulings by failing to completely and properly inform the Court.

2.

Claims in this instance are an attempt by movant to seize upon a seemingly favorable opportunity to suppositiously present spurious facts detrimental to a true and very real situation.

3.

In truth and in fact, the entire matter surrounding respondent's need to seek the protection of this Honorable Court results entirely from movant's refusal to honor its obligations relative to that certain Joint Venture and/or Loan Agreement relating to the development known as the Gilbert Mills Land Tract. This resulted from respondent's refusal concerning a host of demands as will be show[n]; but, the predominant reason motivating movant was respondent's refusal to agree to bar black citizens from the development.

4.

Prior to becoming involved at the request of movant, respondent was basically debt free, with the exception of a few incidentals and the small long-term remaining balance due on respondent's home mortgage.

5.

Respondent still has no debts, only those now being surreptitiously presented by movant and resulting entirely from their own unwarranted acts relating to the Gilbert Mills Land Tract Development

6.

Movant was well aware during the time it requested respondent to become involved in the Gilbert Land Mills Tract Development that respondent was completing several years inactivity as resulted from a long series of heart attacks and four (4) by-pass surgeries.

7.

In reality, only one real creditor existed and appeared at the 362(A) meeting on 5/9/86 and this was movant as represented by current counsel.

8.

In truth and fact, the equipment which is the subject of this hearing, has been securely parked and has never moved since August and September, 1984 respectively.

9.

The equipment has never been moved because movant requested the continued parking originally and subsequently committed certain other acts against respondent which critically guaranteed it would not move.

10.

That the matter is a controversy of long standing is a very evident fact.

11.

As early as July 25, 1985, respondent sought out the Honorable Leon Hebert for the purpose of bringing litigation against movant and protecting respondent's interests.

12.

Leon Hebert, Esq. realized a conflict of interest and therefore, arranged for respondent to meet and discuss the matter with the present counsel for movant.

13.

Counsel for movant explained to respondent that he represented the Bank of Zachary and therefore, gave respondent other names and this was July 25, 1985.

14.

Until now, movant has expressed no concern for protecting the equipment and has failed to exercise any of the options available to it, and this is in obvious

contrast to respondent's continued long-term concern.

15.

Movant failed to specify that its claim is based on a stipulated rather than conventional judgment and this gives rise to the obvious question, why?

16.

Respondent voluntarily allowed the stipulated judgment only for the purpose of maintainig minimum legal and court costs and then only after having first asserted the existence and recognition of a Joint Venture and/or Loan Agreement and all of this for the purpose of pursuing the matter in a proper court as plaintiff.

17.

Respondent properly and timely challenged movant's claims on April 15, 1986 by entering the full amount owed on Schedule A-2 with the positive assertion that the amount was disputed and debtor did

in fact maintain a superior claim against creditor.

18.

Respondent fully and completely answered all of movant's questions during the Section 362(A) meeting, cooperated with counsel in a most honest, pleasant and straightforward manner, but, in so doing, made it abundantly clear that we filed our Chapter 11 Voluntary Petition only after learning movant planned to attempt removing us from our home commencing April 14, 1986.

19.

Apparently, hearing regulations provide only for the issue of: 1) adequate protection, 2) debtors equity in the property, 3) necessity of the property for an effective reorganization and, 4) the existence of other causes for relief.

20.

Additionally, hearing regulations apparently preclude respondent's raising

the critical issue of counterclaims against movant though relevant and crucial to the claim by movant.

21.

Alternatively, hearing regulations apparently do not preclude respondent's presenting evidence on the counterclaims which the Court may consider in exercising its discretion, and with the Court's permission, we wish to do so.

22.

Respondent acknowledges Paragraph 1 of movant's allegations, but only to the extent of the Joint Venture and/or Loan Agreement.

23.

Respondent does not have sufficient time remaining, before the stipulated deadline for filing this answer will have lapsed, to review the Federal Judgship Act of 1984. What respondent does have however, is a total respect for and trust in

our judicial system. With this in mind, we blindly move on.

24.

Respondent acknowledges Paragraph 3 of movant's allegations only to the extent of the Joint Venture and/or Loan Agreement.

25.

Respondent acknowledges Paragraph 4 of movant's allegations only to the extent of the Joint Venture and/or Loan Agreement and the recognition that it is in error as movant improperly released funds for equipment, not released and not delivered.

26.

Respondent acknowledges Paragraph 5 of movant's allegations only to the extent of the Joint Venture and/or Loan Agreement and the recognition of error as movant improperly released funds for equipment not released and not delivered.

27.

Respondent acknowledges Paragraph 6 of movant's allegations as being in error.

28.

Respondent denies Paragraph 7 of movant's allegations. As will be shown at the proper time, respondent is not now, nor was he ever in default. Only to the extent that we are momentarily apparently barred from presenting the facts can it be maintained that we are in default.

REBUTTAL FOR THE MOTION SEEKING MODIFICATIONS OF THE AUTOMATIC STAY

29.

Allegations of Paragraph 1 through 28 are considered herein also, as though actually written.

30.

Respondent objects to the modification requested in Paragraph 9 as follows:

1. To the extent that recognition of the Joint Venture and/or Loan

Agreement will prevail when presented.

2. Respondent does have costs invested in the equipment above in the value of the notes.
3. The equipment is of particular models adaptable to respondent's particular plans.
4. The equipment has been modified to a considerable degree for the purpose of serving the needs of a unique operation.
5. Certain pieces of the equipment were chosen for certain unique features not adaptable to common operations.
6. Respondent will be required to spend considerable funds again to procure and mobilize similar equipment over great distances at costs not included in the purchase cost of the equipment.

7. Movant failed to include qualifications on the appraiser and appraisers marketing capability is certainly in doubt.

8. Movant's apraisal is grossly deficient and in error as follows:

    1. The 1986 manuals mentioned are not correct for this equipment as the equipment was purchased in 1984 has never moved and as such, a modification only from the 1984 manuals is proper. Movant's appraisal is obviously not correct as no inspection was ever made. This is not in compliance with LSA-R.S. 13:4365.
    2. Extensive modifications were not inspected and proper valuations allowed.
    3. Permanent additions to the equipment were not noted.

6

4. Model numbers are not correct.
5. Names of equipment pieces are not correct.
6. The hoe is not priced separately.
7. The shuttle shift is not listed.
8. The oil field bed is not separately priced.
9. The truck, crane, and trailer are not shown as a unit.
10. Typographical error in value of the crane.
11. Crane is a full cab, 360° T. Table, w/3 pt. hyd. boom.
12. Crane has fully hydraulic outriggers.
13. No separate price given on the tagline winder.
14. No size given for the clam bucket.

15. Clam bucket is hydraulic and not a cable model.

16. No size given for the concrete bucket.

17. The jib does not exist and never has.

9. Movant has done a severe injustice to respondent over an extended period of time improperly discussing its relationship with respondent openly with numerous persons and this has greatly depressed the value of the equipment.

10. Respondent's considered opinion is that this particular trade area is not correct for the particular equipment.

31.

Respondent objects to the allegations made in Paragraph 10 as follows:

1. To the extent that recognition of the Joint Venture and/or Loan Agreement will prevail when presented.
2. The equipment has remained parked through no fault or failure of respondent.
3. The equipment is in a most secure location, well lighted, in the middle of a very large equipment yard, under very high security fences which are locked during all non-working hours.
4. Under the conditions, respondent suggests there is no maintenance necessary.
5. Respondent is painfully aware that movant failed in its obligations to respondent as to exercise its options and properly insure the equipment.

6. The equipment is depreciating at no greater rate now than it was in September 1984.

32.

Respondent takes strong exception to movant's statements in Paragraph 11. The equipment is critical to respondent's Reorganization Plan and further, will only prove burdensome if similar equipment is required to be purchased, remodeled and mobilized as was the current equipment. Respondent does have considerable equity in the equipment especially when viewed from the long term construction contract methods of accounting.

33.

Respondent takes strong exception to movant's statement in Paragraph 12, as it is not true.

REBUTTAL TO THE MOTION SEEKING ADEQUATE PROTECTION OF COLLATERAL

34.

Allegations of Paragraphs 1 through 33 are considered herein also, as though actually written.

35.

Respondent objects to the allegations by movant in Paragraph 14. To the extent that recognition of the Joint Venture and/or Loan Agreement will prevail when presented, respondent is not incapable or in default.

36.

Respondent has taken exception to Paragraph 15 as fully explained in Paragraphy 23.

REBUTTAL TO THE MOTION SEEKING DISMISSAL OR CONVERSION OF THE CASE

37.

Respondent denies allegations in Paragraph 16.

38.

Respondent denies allegations in Paragraph 17. Respondent further alleges that conversion is not proper as it is not in the best interest of the estate as prescribed in Rule 1112 and is precluded by Rule 101.17.

39.

Respondent objects to the allegations by movant in Paragraph 18, to the extent that recognition of the Joint Venture and/or Loan Agreement will prevail when presented.

Respondent reiterates his basic contention that movant is responsible for its actions and there is the very real issue of the Joint Venture and/or Loan Agreement. Respondent prays that this Honorable Court will in due time allow the truth in this matter to be heard.

In Proper Person,

Jerald Lee Barksdale
Debtor In Possession
4013 Cypress
Zachary, LA 70791

CERTIFICATE

I hereby certify that a copy of the above and foregoing has this day been mailed, registered with return receipt requested, to all counsel of record.

Baton Rouge, Louisiana, this ____ day of ________________, 1988.

Jerald Lee Barksdale

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE: CASE NO. 86-00495

JERALD LEE BARKSDALE

DEBTOR

BANK OF ZACHARY

MOVANT

VERSUS A CONTESTED MATTER

JERALD LEE BARKSDALE

DEBTOR IN POSSESSION

AFFIDAVIT OF SERVICE

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:

____

Jerald Lee Barksdale ____________________.

Who after being duly sworn by me, did depose and state: That he is the debtor in this contested matter, and that on ____________________________, 1986, he did serve by United States Mail, registered,

postage prepaid, upon the movant and that there is no unsecured creditor's committee, the following Pleadings:

1. Respondent's Rebuttal to Movant's Motion Seeking Modification of Automatic Stay, Adequate Protection of Collateral, and Other Relief.

____

SWORN TO AND SUBSCRIBED before me, this ___________ day of __________________, 1986.

____
Notary Public

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

Jerald Lee Barksdale	* Civil Action No. 87-524B
Plaintiff-Appellant	* Civil Action No. 86-603B
Jerald Lee Barksdale	*
Debtor in Possession	* Civil Action No. 86-684B
Versus	*
Honorable Wesley W. Steen Judge, United States	* Case Number 86-00495
Bankruptcy Court For The Middle District of La.,	*
Arch V. Doughty, Sheriff and Tax Collector of	* Adversarial No. 87-0038
East Feliciana Parish, and Bank of Zachary	*
Defendant-Appellee	* Adversarial No. 87-0058

Statement of Compliance and Protest

NOW INTO COURT, comes Jerald Lee Barksdale, hereinafter referred to as Appellant, and respectfully makes this statement of compliance and protest.

1. Statement of Compliance

1.1 Suit records relating Adversarial No. 87-0038 were delivered by Appellant to the Office of the Trustee during the A.M. 14 August 1987.

1.2 The Trustee instructed Appellant by telephone, 12 August 1987, to deliver its aforementioned suit file to the Trustee's office in order that the Trustee might decide if Appellant has a case against the Bank of Zachary, and whether that case should be dismissed or settled.

1.3 Constraints imposed 17 July 1987, by the District Judge, against Appellant, precluded Appellant rebutting the Trustee's demands. Appellant stated it would weigh the trauma of incarceration on its health, as opposed to giving up and delivering its records to the Trustee during the A.M. 14 August 1987.

2. Protest

2.1 Counsel for the Bank of Zachary misinformed the District Judge during the 17 July 1987 hearing, about Appellant's decision to not attend the 22 June 1987, Section 341 (2) meeting. Appellant made its decision based on Local Bankruptcy Rule 2.7 (B), which reads:

> a case will be dismissed for failure of the debtor to attend a Section 341 meeting unless the Court determines to the contrary upon timely motion by the debtor and a hearing.

2.2 No provision is intended or provided by Local Bankruptcy Rule 2.7 (B) for motions by parties other than debtors. Rule 2.7 (B) does not preclude parties pursuing claims before other forums.

2.3 Appellant has complied with the District Judge's order issued 17 July 1987.

2.4 Ordered transcripts are scheduled to be delivered August 21, 1987.

2.5 No additional creditor's meeting has been ordered.

2.6 Objections by Appellant regarding sufficiency of the Trustee's security bond have not been answered.

2.7 Counsel for the Bank of Zachary has ordered three (3) hearings before Judge Wesley W. Steen in the Bankruptcy Court on 26 August 1987, at 9:00 o'clock a.m., as stated below.

2.8 Motion by the Bank of Zachary to except Case No. 86-00495 from Local Rule 2.7 (B) is to be heard.

2.9 Motion to Dismiss the Motion for Rehearing filed by Appellant, and now an appeal before the District Court relating Adversary No. 87-0058, is to be heard.

2.10 Motion for Order Compelling Discovery regarding Adversary No. 87-0038 is to be heard.

2.11 Appellant's position has now been rendered most precarious.

2.12 Counsel for Arch V. Doughty, Sheriff, has not been notified as required.

2.13 Trial by Jury was timely requested by Appellant. Appellant has not requested, nor consented, to determination of this proceeding by other than an Article III judge.

2.14 The inexorable commands of Article III are clear and definite: The judicial power of the United States must be exercised by courts having the attributes prescribed in Art. III. 450 U.S. at 58-59.

2.15 Because of the above, Appellant respectfully protests.

Appellant has first filed with the Bankruptcy Court.

Respectfully Submitted,
In Proper Person

Jerald Lee Barksdale
4013 Cypress
Zachary, LA 70791

Certificate

I certify that a copy of the above and foregoing has been mailed by United States mail, postage prepaid, this 19th day of August, 1987, to:

United States District Court
Middle District of Louisiana
707 Florida Street
Baton Rouge, LA 70801

Ms. Dereen S. Johnson
Attorney
4264 Perkins Road
Baton Rouge, LA 70808

William G. Carmichael
Attorney for Arch V. Doughty, Sheriff
P. O. Box 8580
Clinton, LA 70722

David S. Rubin
Attorney for Bank of Zachary
P. O. Box 2997
Baton Rouge, LA 70821

JERALD LEE BARKSDALE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

Jerald Lee Barksdale	*	Civil Action No. 87-524B
Plaintiff-Appellant	*	Civil Action No. 86-603B
Jerald Lee Barksdale	*	
Debtor in Possession	*	Civil Action No. 86-684B
Versus	*	
Honorable Wesley W. Steen Judge, United States	*	Case Number 86-00495
Bankruptcy Court For The Middle District of La.,	*	
Arch V. Doughty, Sheriff and Tax Collector of	*	Adversarial No. 87-0038
East Feliciana Parish, and Bank of Zachary	*	
Defendant-Appellee	*	Adversarial No. 87-0058

REQUEST FOR PROTECTION

NOW INTO COURT, comes Jerald Lee Barksdale, hereinafter referred to as appellant, and respectfully makes this, its request for protection.

1. On returning from Baton Rouge late in the P.M. yesterday, 19 August 1987,

appellant found in its mail, Notice of Hearing dated 14 August 1987, filed in the Bankruptcy Court by the Trustee, Ms. Derren Johnson (L.S.U. 84).

2. Copy of the aforementioned Notice of Hearing is attached and forms a part hereof.

3. Within hours after appellant delivered its files to the Trustee, pursuant to the 17 July Order by the District Court, the Trustee issued its settlement agreement.

4. The aforementioned settlement agreement requires dismissal of Adversarial No. 87-0038 with prejudice against appellant. Further, the Trustee is to receive $1,000.00 cash from the Bank of Zachary.

5. Irreparable injury has been caused to appellant and others.

6. At the time the Trustee demanded appellant surrender its files, appellant

explained to the Trustee that two (2) major Federal issues are involved as explained below.

7. Abuse of millions of dollars in Federal Housing and Urban Development funds, plus the improper diversion of tax monies from the Parish of East Baton Rouge, is one issue.

8. The second Federal issue is the issue of Civil Rights, wherein appellant refused to bar black citizens from its development project.

9. When the trustee called appellant, the trustee particularly brought up and sought to explain that the trustee was not involved with W. H. LeBlanc, Jr. and other persons Appellant previously complained about. Appellant has information causing it to believe otherwise.

10. Quite important also, is the continued stream pollution relating the aforementioned tract development. This

unlawful situation continues to be condoned.

11. On 12 August 1987, the Committee on Professional Responsibility of the Louisiana State Bar Association issued its letter of findings to Appellant relating Foster Sanders III involved in the aforementioned project. Copy of the said letter is attached and forms a part hereof.

12. Files required to be surrendered to the Trustee, also relate to that pending Nullity Action before Judge Moreau in the Nineteenth Judicial District Court of Louisiana.

13. Apparently, Appellant's files will be made available to Counsel for the Bank of Zachary.

14. After filing this Request for Protection, first in the Bankruptcy Court, Appellant will seek to have the Trustee allow it to copy the files. Appellant does not believe this will contravene the District Court Order of 17 July 1987.

15. Appellant's position has been made most precarious and it cannot recover from the damage being done.

16. In view of the foregoing, Appellant most respectfully requests the District Judge, in its wisdom, afford Appellant whatever degree of protection it can.

Respectfully Submitted
In Proper Person,

Jerald Lee Barksdale
4013 Cypress
Zachary, LA 70791
(504) 654-9052

Certificate

I certify that a copy of the above and foregoing has been mailed by United States Mail, postage prepaid, this 20th day of August, 1987.

United States District Court
Middle District of Louisiana
707 Florida Street
Baton Rouge, LA 70801

Ms. Derren S. Johnson
Attorney
4264 Perkins Road
Baton Rouge, LA 70808

William G. Carmichael
Attorney for Arch V. Doughty, Sheriff
P.O. Box 8580
Clinton, LA 70722

David S. Rubin
Attorney for Bank of Zachary
P.O. Box 2997
Baton Rouge, LA 70821

JERALD LEE BARKSDALE

August 12, 1987

Mr. Jerald Barksdale
4013 Cypress Street
Zachary, Louisiana 70791

RE: COPR FILE NO. 8255/FOSTER SANDERS III

Dear Mr. Barksdale:

Please be advised that the Committee has concluded its consideration of this matter. There does not exist sufficient evidence to warrant further involvement by the Committee. The Committee has concluded that the fact that Mr. Sanders did not exercise the options in question is a legal matter. Legal matters are beyond the jurisdiction of the Committee and need to be resolved in a Court. This file is today being closed. Should you have any questions, please refer them to the undersigned utilizing the above number for reference.

Yours very truly,

Cheri A. Cotogno
Assistant Counsel

CAC/mb

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE * CASE NO. 86-00495

DEBTOR IN POSSESSION *

JERALD LEE BARKSDALE *

PLAINTIFF *

VERSUS

HONORABLE WESLEY W. *
STEEN JUDGE, UNITED
STATES BANKRUPTCY
COURT FOR THE MIDDLE
DISTRICT OF LOUISIANA,
ET AL.

RESPONDENT * REORGANIZATION

MOTION OF JERALD LEE BARKSDALE REQUESTING RECUSATION OF HONORABLE WESLEY W. STEEN

NOW INTO COURT comes Jerald lee Barksdale and respectfully represents:

(1)

Disqualification of Judge Steen is requested.

(2)

Plaintiff files timely.

(3)

Continuance would contravene 28 U.S.C.A. 455.

(4)

Continuance would contravene 28 U.S.C.A. 144.

(5)

Affidavit per 28 U.S.C.A. 144 forms a part hereof.

(6)

Sanders, Downing, Kean and Cazedessus has opposed Plaintiff since at least as early as 31 October 1962.

(7)

Plaintiff believes Respondent associated with said law firm in 1971.

(8)

John Powers, Attorney, was associated with Respondent in said firm.

(9)

Michael Rubin, Attorney, was associated with Respondent in said firm.

(10)

John Powers and Michael Rubin, Attorneys, filed fraudulent Declinatory and Dilatory Exceptions 20 July 1977 per Probate Number 15726 in the Nineteenth Judicial District Court of Louisiana.

(11)

Sanders, Downing, Kean and Cazedessus represented Mrs. Hugh B. Rawls of Houson, Texas in the aforementioned matter and combined with others to deny Plaintiff an accounting of his late father's estate.

(12)

Fraud is a very hateful and stressful thing that kills men.

(13)

Mrs. Rawls now threatens incarceration of Plaintiff.

(14)

John Powers, Attorney, assured Plaintiff he had not talked with Mrs. Rawls about incarceration.

(15)

John Powers, Attorney, and Patrick Cooper, Attorney, filed Case No. 301,055 against Plaintiff in the Nineteenth Judicial District Court of Louisiana 23 April 1986.

(16)

Case No. 301,055 is ancillary to Probate No. 15726.

(17)

Sanders, Downing, Kean and Cazedessus continue to oppose Plaintiff, representing Mrs. Burk as relates to the Gilbert Mills Land Tract Development in Zaçhary, Louisiana.

(18)

Mrs. Burk is a sister and relative of most officers and board members of the Bank of Zachary.

(19)

David Rubin, Attorney, represents the Bank of Zachary.

(20)

David Rubin, Attorney, and Respondent's former associate and law partner, Michael Rubin, Attorney, are brothers.

(21)

Petitioner is aware firm names change and titles change, but financial, emotional and psychological interests do not.

(22)

Notwithstanding the specificity of issues aforementioned are significantly more compelling as concerns 28 U.S.C.A. 455, the instant issue of disqualification seems to have been sufficiently covered by SCA Services, Inc. v. Hon. Robert D. Morgan 557 F.2d 110 (C.A. 7th, 1977).

(23)

The Court ignored Petitioner's Rebuttal to Movant's Petition Pursuant to Section 362 at the 13 June 1986 hearing.

(24)

Clearly, where the Court precluded Petitioner's rebuttal, refused discussion and announced "anything outside of that, I won't hear it today," it evidenced bias and prejudice in contravention of 28 U.S.C.A. 144.

(25)

Plaintiff analogizes the aforementioned to "you're stuck" in Webbe v. McGhie Land Title Company 549 F.2d 1358 (C.A. 10th Cir., 1977).

(26)

Affidavit of Bias or Prejudice

Jerald Lee Barksdale, being duly sworn, deposes and says:

1. I am the Plaintiff in the above entitled cause.

2. That the Honorable Wesley W. Steen, Judge of the Court in which this action was commenced and is now pending, and before whom is to be tried or heard,

has a personal bias and prejudice against me and in favor of the Bank of Zachary, and the facts and reasons for such belief are shown above.

3. Affiant further states that he did not file this or any Affidavit of Prejudice until this date for the reason that the first knowledge he had that Honorable Wesley W. Steen has a personal bias and prejudice against him was on 6 August 1986, and subsequent thereto, and that this Affiant has filed this Affidavit of Prejudice at the first opportunity thereafter and is made in good faith.

Date: 15 August 1986

JERALD LEE BARKSDALE

NOTARY PUBLIC

Plaintiff/Affiant prays Honorable Wesley W. Steen proceed no further in this cause and another judge be designated.

IN PROPER PERSON

JERALD LEE BARKSDALE
4013 CYPRESS
ZACHARY, LOUISIANA 70791

CERTIFICATE

I hereby certify that a copy of the above and foregoing has this day been mailed by United States Mail, postage prepaid to:

Bank of Zachary represented by
David S. Rubin, Attorney
Post Office Box 2997
Baton Rouge, Louisiana 70821-2997

Baton Rouge, Louisiana, this 15 August, 1986.

JERALD LEE BARKSDALE

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

Jerald Lee Barksdale	*	No. 86-3691 - IN RE: Barksdale
Plaintiff-Appellant	*	
Jerald Lee Barksdale	*	No. 86-3805 - IN RE: Barksdale
Debtor-In-Possession	*	
versus	*	Case Number 86-00495
Honorable Frank J. Polozola, Judge, United	*	
States District Court For The Middle District	*	
of La., Honorable Wesley W. Steen	*	Civil Action No. 87-524B
Judge, United States Bankruptcy Court For	*	
The Middle District of La., Arch V. Doughty,	*	
Sheriff and Tax Collector of East	*	Adversarial No. 87-0038
Feliciana Parish, Bank of Zachary, and Derren	*	
S. Johnson, Attorney	*	
Defendants-Appellees	*	Adversarial No. 87-0058

Petition For Writ of Mandamus

Petitioner, Jerald Lee Barksdale, domiciled in East Baton Rouge Parish, Louisiana, respectfully shows:

1. General

1.1 Named defendants herein are: (1) Honorable Frank J. Polozola, District Judge of the United States District Court for the Middle District of Louisiana; (2) Honorable Wesley W. Steen, Judge of the United States Bankruptcy Court for the Middle District of Louisiana; (3) Arch V. Doughty, Sheriff and Tax Collector of East Feliciana Parish of Louisiana, and domiciled in East Feliciana Parish of Louisiana; (4) Bank of Zachary, a banking corporation organized under the laws of the State of Louisiana and doing business in East Baton Rouge Parish of Louisiana; and (5) Derren S. Johnson, Attorney in East Baton Rouge Parish of Louisiana.

1.2 Denial of "Due Process is the basic issue compelling this petition.

1.3 Obvious abuse of discretion and usurpation of judicial power is found and requires relief.

1.4 Relief is available under 28 U.S.C.A., Sec. 1651, wherein Petitioner has no other adequate remedy.

1.5 Incarceration is imminent, and resulting from the stress of the past thirty-six (36) months, combined with the sacrifice of its medicine and physicians, Petitioner's survival does not seem likely. Assuming survival is possible, chances are, it would not be without a crippling stroke.

1.6 Mental anguish, resulting from unprovoked and unfounded charges by the Bankruptcy Judge relating Petitioner's incompetence and inability to handle its affairs, are extremely stressful.

1.7 Petitioner's original need to seek Chapter 11 Protection Pro Se emanates not from desire; rather, from improprieties surrounding a certain stipulated judgment.

1.8 The aforementioned stipulated judgment was entered into against Petitioner by Counsel for the Bank of Zachary

and Petitioner's former counsel, who then abandoned Petitioner to fend for himself.

1.9 Petitioner was not aware what a stipulated judgment was, or consequences of the resulting judicial lien which automatically attaches.

1.10 The judicial lien froze Petitioner's assets and consequently halted Petitioner's efforts to bring suit against the Bank of Zachary.

1.11 Additionally, the judicial lien halted Petitioner's efforts in all other areas.

2. No. 86-3691

2.1 Petitioner respectfully submits all matters before the Bankruptcy Court are stayed, pursuant to 28 U..S.C.A., Sections 445 and 144.

2.2 Certificate filed by Petitioner 15 August 1986, is not barren of factual allegations of personal bias.

2.3 Further, Petitioner respectfully submits this Honorable Court did not intend to deny Petitioner "Due Process" by its decision rendered 5 January 1987.

2.4 Conversely, the Bankruptcy Judge sought to deny Petitioner "Due Process" by its improper scheduling of hearing dates. By so doing, no final appealable decisions were rendered prior to the decision to convert, and that decision is alleged to be non-appealable.

3. No. 86-3805

3.1 Perfection of captioned appeal was not consummated on 23 January 1987, because Petitioner's final land purchase option had then lapsed.

3.2 Costs relating captioned appeal were not barred from subsequent inclusion in Petitioner's total claim against the Bank of Zachary.

4. Case No. 86-00495 Conversion Appeal

4.1 Notwithstanding the 4 March 1987 hearing, the 18 May 1987 hearing, and Petitioner's Memorandum in Opposition for Motion to Convert Case, the Bankruptcy Judge ordered conversion.

4.2 Petitioner appealed the conversion, and that appeal forms a part of this petition.

4.3 The District Judge affirmed conversion without allowing Petitioner to submit its appeal brief.

4.4 Documentation relating the above, copies of which are attached and form a part hereof, are: (1) Notice of Appeal dated 8 June 1987; (2) Letter of 8 June 1987, by Petitioner to the Clerk of Bankruptcy Court; (3) Letter of 11 June 1987, by Petitioner to the Clerk of Bankruptcy Court; (4) Letter of 17 June 1987, by Petitioner to the Clerk of Bankruptcy Court; (5) Statement of Issues to be Presented and

Designation of Items to be Included in the Record in the Matters of Recusation and Appeals by Petitioner dated 18 June 1987; (6) Letter of 23 June 1987 by the Clerk of the Bankruptcy Court to Petitioner; (7) Letter of 25 June 1987, by Petitioner to the Clerk of the Bankruptcy Court; (8) Clerk's Certificate dated 25 June 1987; and (9) Petitioner's Inquiry and Addendum to Clerk's Certificate.

5. Local Bankruptcy Rule

5.1 Local Bankruptcy Court Rule 2.7 (B) reads:

> Failure to Attend Section 341 Meetings. A case will be dismissed for failure of the debtor to attend a Section 341 meeting unless the Court determines to the contrary upon timely motion by the debtor and a hearing.

5.2 Petitioner did not file a motion, and made its decision to not attend the meeting pursuant to the above.

6. Civil Action No. 87-524B

6.1 The District Judge dispatched a U.S. Marshall to Petitioner's home with a Rule to Show Cause dated 7 July 1987. Copy of the rule is attached, and forms a part hereof.

6.2 Petitioner complied and filed Appellant's compliance with Rule to Show Cause 16 July 1987. Copy of the filing is attached and forms a part hereof.

7. Show Cause Hearing 17 July 1987

7.1 After the courtroom was cleared of all except associated persons, the hearing continued for a period in excess of an hour. Petitioner's wife sat at Petitioner's table, while its mother and two (2) other relatives sat in the courtroom.

7.2 The District Judge instructed Petitioner: (1) Recusal was not an issue, would not be allowed in his court, and any related discussion would not be tolerated; (2) Petitioner was not to present anything,

would only listen, and would not be tolerated any longer; (3) All that was filed was garbage; (4) Michael Rubin, Attorney, was no longer involved with Petitioner's sister as that litigation was now being handled against Petitioner by John Powers, Attorney; (5) The Bankruptcy Judge would hear all matters, and after all was over, Petitioner could appeal; and (6) After the hearing was over, Petitioner would know what the District Judge meant.

7.3 On at least two (2) occasions, Petitioner was informed by the District Judge that Petitioner was obstructing justice, and would not be tolerated.

7.4 Additionally, the District Judge stated, on at least two (2) occasions, "The Bankruptcy Court is like a Chinese Fire Drill, you are causing this, and you are not going to run the Bankruptcy Court."

7.5 At least on five (5) occasions, the District Judge stated, "You are going

to be arrested, taken before the Grand Jury, and left in jail until this whole matter is completed."

7.6 Additionally, the District Judge stated, "I do not have a cell to lock you in, but will lock you in a room today in the basement, and leave you there until I build a special cell for you."

7.7 Further, the District Judge compared Petitioner to "Drunks, tax evaders, and dope addicts" who appear before him.

7.8 Subsequent to the hearing, the District Judge issued a minute Entry dated 17 July 1987, in the form of an order. The Minute Entry indicates that parties presented their arguments. Petitioner was not allowed to present anything, and Counsel for the Bank of Zachary misinformed the District Judge relating Local Bankruptcy Rule 2.7 (B). Copy of the 17 July 1987 Order is attached, and forms a part hereof.

7.8 On 20 July 1987, Petitioner filed Appellant's Compliance with the District Court Order Relating Transcripts, a copy being attached, and forming a part hereof.

8. Adversarial No. 87-0038

8.1 An additional creditor's meeting was not ordered, in accordance with orders of the District Judge. Rather, the Bankruptcy Court allowed its Trustee, Derren S. Johnson, to demand and seize Petitioner's files relating its litigation with the Bank of Zachary.

8.2 Documentation relating the above is attached and forms a part hereof, as follows: (1) Petitioner's Statement of Compliance and Protest filed 19 August 1987; (2) Petitioner's Opposition by Jerald Lee Barksdale to Motion of the Bank of Zachary for Order Compelling Adversary No. 87-0038 Discovery filed 25 August 1987; (3) Petitioner's Request for Protection filed 20 August 1987; and (4) Opposition by

Jerald Lee Barksdale to Motion of the Trustee to Approve Settlement of Adversarial No. 87-0038.

9. Adversarial No. 87-0058

9.1 This matter is now appealled.

10. Conversion Affirmed Without Briefs

10.1 Minute Entry dated 10 August 1987, issued by the District Judge, has affirmed conversion. Petitioner has not been afforded an opportunity to even file its appeal brief.

10.2 Petitioner's 16 July 1987 filing of Appellant's Compliance with Rule to Show Cause has been ignored. Every statement made therein is the truth, and Petitioner appeared 17 July 1987 before the District Judge with substantiating documentation, but was denied an opportunity to present the facts or law.

10.3 Notwithstanding Petitioner's decision made pursuant to Local Bankruptcy Rule 2.7 (B), the District Judge's Rule to

Show Cause does not appear consistent with similar cases. See In Re Fulton, 52 B.R. 627 (Bankr. D. Utah, C.D. 1985).

10.4 Considering that Petitioner does not now have, nor has it ever had any consumer debts, conversion was not proper.

Petitioner has presented fact, law, and its certification showing that Judge Steen should never have heard any matters in this case and prays that Judge Steen be recused. Petitioner prays that it be released from all decisions rendered by Judge Steen and all costs be imposed against the Bank of Zachary with prejudice. Petitioner prays that it be released from this Bankruptcy Court without costs and transferred to another District Court, or another Class III Judge, where it might properly present all issues and documentation. Alternatively, Petitioner prays it be released from all Bankruptcy Proceedings and allowed

to pursue all matters at the State Court level.

RESPECTFULLY SUBMITTED:
IN PROPER PERSON:

JERALD LEE BARKSDALE
4013 CYPRESS
ZACHARY, LOUISIANA 70791
(504) 654-9052

Certificate

I certify that a copy of this petition has been mailed by United States Mail, first class, postage prepaid, this 10th day of September, 1987, to:

Honorable Frank J. Polozolo
United States District Court
Middle District of Louisiana
707 Florida Street
Baton Rouge, LA 70801

Honorable Wesley W. Steen
United States Bankruptcy Judge
Middle District of Louisiana
412 North Fourth Street
Baton Rouge, LA 70801

David S. Rubin
Attorney for
Bank of Zachary
P. O. Box 2997
Baton Rouge, LA 70821

William G. Carmichael
Attorney for
Arch V. Doughty, Sheriff
P. O. Box 8580
Clinton, LA 70722

Derren S. Johnson
Attorney
4264 Perkins Road
Baton Rouge, LA 70808

JERALD BARKSDALE

May 24, 1988

Mr. Jerald Barksdale
4013 Cypress
Zachary, Louisiana 70791

Dear Mr. Barksdale:

This is in response to your letter dated April 22, 1988, addressed to the President of the United States. Your letter requests a Department of Justice investigation into allegations made by you of fraud, suppression of evidence, conspiracy, extortion and conflict of interest on the part of several State and Federal Judges, citizens, and elected officials. Because you have requested a Department of Justice investigation, your letter was referred to this office by the White House for our response.

Your letter and enclosures were submitted by this office to the United States Attorney's office for the Middle District of Louisiana for their review. Our c

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response is based in part on the reaction to that material by the United States Attorney. We have been informed that his office has no record of being contacted by you regarding these issues.

It is apparent that you have presented your claims to state and federal judicial systems. Those courts have heard your allegations, considered the evidence you have in support of your position and apparently failed to rule in your favor. You now seek a criminal investigation into these matters to aid your claim for civil relief.

United States Attorneys and their offices are charged with acting in the public interest. It is not in the public interest to commence a criminal investigation into the affairs of the citizens of the Unites States based solely on the uncorroborated allegations of one person. Without evidence to support your

allegations, the Department of Justice cannot authorize the investigation you desire.

Your letter and enclosures are being returned to you with this letter. If you are in possession of evidence that supports your claims, we urge you to report that information to the Federal Bureau of Investigation office in Baton Rouge. If that office deems a federal crime has been appropriately alleged, the United States Attorney's office will be contacted by the FBI to consider the matter of prosecution.

Sincerely,

Manuel A. Rodriguez
Legal Counsel

Enclosures

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 86-3691

(USDC No. CA-86-603-B)

In Re: JERALD LEE BARKSDALE,

Plaintiff-Appellant

Appeal from the
United States District Court
For the Middle District
of Louisiana

(January 5, 1987)

Before POLITZ, WILLIAMS, and JONES, Circuit Judges.

PER CURIAM:*

This Court must examine the basis of its own motion, if necessary. **Thompson v.**

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

Betts, 754 F.2d 1243, (5th Cir. 1985). Mr. Barksdale filed a notice of appeal from an order of the District Court denying a motion to disqualify the bankruptcy judge. We agree with the Ninth Circuit that the order is not appealable until a direct appeal is taken from a final decision of the district court in the bankruptcy proceedings adverse to Barksdale. **Matter of Horton**, 621 F.2d 968, 970 (9th Cir. 1980). **See In re Corrugated Container Antitrust Litigation**, 614 F.2d 958, 960-62 (5th Cir.), **cert. denied**, 449 U.S. 888 (1980).

Therefore, this appeal is **DISMISSED**.

We note, however, the appellee's statement in its brief that Case No. 86-3805 on our docket constitutes the appeal of Barksdale from the district court's adverse in the §362 litigation. The issue of recusal may be raised in that related appeal.

IN THE UNITED STATES
COURT OF APPEALS FOR THE
FIFTH CIRCUIT

No. 86-3805

IN THE MATTER OF JERALD LEE BARKSDALE,
Debtor.

JERALD LEE BARKSDALE,
Plaintiff-Appellant,

versus

BANK OF ZACHARY,
Defendant-Appellee.

- - - - - - - - - - - - - - - -

Appeal from the United States
District Court for the Middle District
of Louisiana

- - - - - - - - - - - - - - - -

CLERK'S OFFICE:

Pursuant to Local Rule 42.3, the appeal was duly entered dismissed for want of prosecution for failure of appellant to file the brief within the time fixed by the rules, this 23rd day of January, 1987.

GILBERT F. GANUCHEAU
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: ____________________________
Deputy Clerk
FOR THE COURT - BY DIRECTION

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 87-3667

IN RE:

JERALD LEE BARKSDALE

Petitioner

- - - - - - - - - - - - - - - - -

On Petition for Writ of Mandamus
to the United States District Court
for the Middle District of Louisiana

- - - - - - - - - - - - - - - - -

Before CLARK, Chief Judge, WILLIAMS and DAVIS, Circuit Judges.

BY THE COURT:

IT IS ORDERED that the petition for writ of mandamus is denied.

MOT-6E

9/24/87

IN THE UNITED STATES
COURT OF APPEALS FOR THE
FIFTH CIRCUIT

No. 87-3760
Summary Calendar

IN THE MATTER OF: JERALD LEE BARKSDALE,
Debtor.

JERALD LEE BARKSDALE,
Appellant,

versus

HONORABLE WESLEY W. STEEN, ET AL.,
Appellees.

Appeal from the United States
District Court for the
Middle District of Louisiana
(CA-86-603-B)

(February 11, 1988)

Before POLITZ, JOHNSON, and HIGGINBOTHAM,

Circuit Judges.

POLITZ, Circuit Judge:*

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* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court had determined that this opinion should not be published.

Jerald Lee Barksdale appeals the order of the district court affirming the bankruptcy court's conversion of his Chapter 11 bankruptcy into a Chapter 7 proceeding, and rejecting his motion to disqualify the bankruptcy judge. Finding neither error of fact nor law, we arrirm.

The Bank of Zachary, holder of a security interest in an automobile and certain equipment, obtained a judgment in state court against Barksdale, owner of the property. Thereafter, on April 15, 1986, Barksdale sought Chapter 11 relief. The Bank of Zachary promptly responded with a motion to modify the automatic stay or, in the alternative, to dismiss or convert the proceeding.

After a hearing, the bankruptcy court modified the automatic stay to authorize the Bank of Zachary to foreclose on the property. Barksdale filed a plethora of motions but took no steps toward the

reorganization of his affairs under Chapter 11. He filed neither a plan nor a disclosure statement. His inaction prompted the bank to renew its conversion motion.

Following a hearing the bankruptcy court found that Barksdale had neithr a business nor a financial enterprise subject to reorganization under Chapter 11. The bankruptcy court converted the proceeding into a Chapter 7 liquidation. The district court affirmed.

As we observed in **Matter of Little Creek Development Co.**, 779 F.2d 1068, 1073 (5th Cir. 1986), quoting our Sixth Circuit colleagues in **Winshall Settlor's Trust**, 758 F.2d 1136, 1137:

> If there is not a potentially viable business in place worthy of protection and rehabilitation, the Chapter 11 effort has lost its raison d'etre . . .

Indeed we concluded that "neither the bankruptcy courts nor the creditors should be subjected to the costs and delays of a

bankruptcy proceeding under such conditions." **Little Creek**, 779 F.2d at 1073.

The finding that Barksdale did not own a business precludes the use of the Chapter 11 mechanism. Were we to conclude that the absence of a business finding was in error, conversion nonetheless would be required. Under 11 U.S.C. §1112(b), the bankruptcy court may convert a proceeding when the debtor is unable to effectuate a viable plan. The bankruptcy court found Barksdale's proposed plan untenable. So do we.

Barksdale also appeals the district court's rejection of his motion to disqualify the bankruptcy judge. He attempted to present that issue for our review in **In re: Jerald Lee Barksdale**, No. 86-3691 (January 5, 1987). Lacking jurisdiction we could not then consider the merits of his challenge. We now have appellate juris-

diction and address the merits of that complaint.

The disqualification of federal judicial officers is provided for in 28 U.S.C. §455. That statute directs recusation in any instance in which the impartiality of the judge reasonably might be questioned. 28 U.S.C. §455(a). The test is whether a reasonable person would recuse himself/herself. **United States v. Dozier**, 707 F.2d 862 (5th Cir. 1983).

Barksdale alleges that the bankruptcy judge should have recused himself because he once practiced law with the brother of an attorney for the bank and was once associated with the firm of Sanders, Downing, Kean & Cazedessus which has represented parties opposed to Barksdale. There is no showing that the bankruptcy judge, while practicing law, ever personally undertook representation adverse to Barksdale. The district court found no

evidence of bias or prejudice on the part of the bankruptcy judge. Nor do we. The motion to recuse was properly denied.

The judgment of the district court is, in all respects, AFFIRMED.

IN THE UNITED STATES
COURT OF APPEALS FOR THE
FIFTH CIRCUIT

No. 87-3760

IN THE MATTER OF: JERALD LEE BARKSDALE,
Debtor.

JERALD LEE BARKSDALE,
Appellant,

versus

HONORABLE WESLEY W. STEEN,
ET AL.,
Appellees.

Appeal from the United States
District Court for the
Middle District of Louisiana

ON PETITION FOR REHEARING
(April 15, 1988)

Before POLITZ, JOHNSON, and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied.

ENTERED FOR THE COURT:

United States Circuit Judge

IN THE UNITED STATES
COURT OF APPEALS FOR THE
FIFTH CIRCUIT

No. 87-3760

IN THE MATTER OF: JERALD LEE BARKSDALE,
Debtor.

JERALD LEE BARKSDALE,
Appellant,

versus

HONORABLE WESLEY W. STEEN,
ET AL.,
Appellees.

Appeal from the United States
District Court for the
Middle District of Louisiana

ORDER:

_____ The motion of appellant for _____ stay _____ recall and stay of the issuance of the mandate pending petition for writ of certiorari is DENIED.

_____ The motion of appellant for _____ stay _____ recall and stay of the issuance of the mandate pending petition for writ of certiorari is GRANTED to and including _________, the stay to continue in force until the final disposition of the case by the Supreme Court, provided that within the period above mentioned there shall be filed with the Clerk

of this Court the certificate of the Clerk of the Supreme Court that the certiorari petition has been filed. The Clerk shall issue the mandate upon the filing of a copy of an order of the Supreme Court denying the writ, or upon the expiration of the stay granted herein, unless the above mentioned certificate shall be filed with the Clerk of this Court within that time.

____ The motion of ________________ for a further stay of the issuance of the mandate is GRANTED to and including ________________, under the same conditions as set forth in the preceding paragraph.

____ The motion of ________________ for a further stay of the issuance of the mandate is DENIED.

____
UNITED STATES CIRCUIT JUDGE
HENRY A. POLITZ

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
JULY 18, 1986
POLOZOLA, J.

IN RE:
JERALD LEE BARKSDALE, DEBTOR

JERALD LEE BARKSDALE, PLAINTIFF

versus BANKRUPTCY

BANK OF ZACHARY, DEFENDANT NO. 86-00495

This matter came on this day on the motion of Bank of Zachary to dismiss the designation of record for appeal and appeal filed by Jerald Lee Barksdale.

PRESENT: Michael Rubin
Attorney for Bank of Zachary

Jerald Lee Barksdale
In Proper Person

The motion of the Bank of Zachary is withdrawn without prejudice.

* * * * *

Champion/rep.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
SEPTEMBER 12, 1986
POLOZOLA, J.

IN RE:

JERALD LEE BARKSDALE

CIVIL ACTION

NUMBER 86-603-B

BANKRUPTCY CASE
NO. 86-495

The motion of Jerald Lee Barksdale to recuse United States Bankruptcy Judge Wesley W. Steen is hereby DENIED.

Judge Steen's prior association with the law firm of Sanders, Downing, Kean and Cazedessus and the fact that he practiced law with the brother of another attorney who is involved in this case are insufficient grounds to recuse Judge Steen. There is no evidence of bias or prejudice on the part of Judge Steen. A review of

this record reveals that the motion to recuse Judge Steen should be and is hereby DENIED.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
NOVEMBER 3, 1986
POLOZOLA, J.

JERALD LEE BARKSDALE	CIVIL ACTION
VERSUS	NUMBER 86-684-B
BANK OF ZACHARY	

On June 11, 1986, the Bankruptcy Court for the Middle District of Louisiana ordered that the automatic stay of Title 11 of the United States Bankruptcy Code be modified and vacated in favor of the Bank of Zachary. The Court further ordered that the Bank of Zachary be "authorized to proceed to foreclose on its collateral, appearing in bidding at any judicial sale thereon, and naming the Debtor as a defendant in such proceedings." The Court's order was signed on June 13, 1986. The debtor has filed this appeal.

This Court finds this order to be an appeallable final order. In Re Comer, 716 F.2d 168 (3rd Cir. 1983); In Re Regency Woods Apartments, Ltd., 686 F.2d 889 (11th Cir. 1982).

After reviewing the evidence the Court finds that the Bankruptcy Court was correct in modifying the stay order. In no way can it be said the findings of fact made by the Bankruptcy Judge were clearly erroneous. The record fully supports the decision of the Bankruptcy Judge.

While the debtor's actions herein are designed to delay these proceedings, the Court does not believe double costs should be awarded to the Bank of Zachary in connection with this appeal.

The order of June 13, 1986 of the Bankruptcy Court is hereby affirmed. Appellant shall pay costs.

Judgment shall be entered accordingly.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE	CIVIL ACTION
versus	NO. 86-684-B
BANK OF ZACHARY	

JUDGMENT

For the written reasons assigned:

IT IS ORDERED AND ADJUDGED that judgment be entered affirming the order of the Bankruptcy Court dated June 13, 1986.

Baton Rouge, Louisiana, November 10, 1986

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE	CIVIL ACTION NUMBER ________
VERSUS	
ARCH V. DOUGHTY, SHERIFF AND TAX COLLECTOR OF EAST FELICIANA PARISH AND THE BANK OF ZACHARY	

- -

BANKRUPTCY COURT CAPTIONS:

IN RE: CASE NUMBER 86-00495

JERALD LEE BARKSDALE

DEBTOR

ORDER FOR REMOVAL

CONSIDERING the foregoing Application for Removal filed by the BANK OF ZACHARY, and

CONSIDERING the Bond filed therewith, and

CONSIDERING the law and allegations appear to be in favor thereof

IT IS HEREBY ORDERED that the matter entitled "Jerald Lee Barksdale v. Arch V. Doughty, Sheriff and Tax Collector of East Feliciana Parish, and the Bank of Zachary," bearing Docket Number 313631 on the docket of the Nineteenth Judicial District Court for the Parish of East Baton Rouge, is hereby ordered removed to the United States District Court for the Middle District of Louisiana, pursuant to the provisions of title 28 U.S.C. 1334, and 1452 and Rule 9027 of the Rules of Bankruptcy Procedure. Pursuant to Local Rule and The Bankruptcy Amendments and Federal Judgeship Act of 1984, this matter is hereby referred to the United States Bankruptcy Court for this district, and the Clerk of this Court shall forward the record of this case to the Clerk of the Bankruptcy Court forthwith.

Baton Rouge, Louisiana, this _____ day

of ______________________________, 1987.

UNITED STATES DISTRICT JUDGE

SERVE: Jerald Lee Barksdale
4015 Cypress
Zachary, LA 70791

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE	CIVIL ACTION
JERALD LEE BARKSDALE	NUMBER 87-524-B

RULE TO SHOW CAUSE

IT IS ORDERED that Jerald Lee Barksdale show cause on July 17, 1987, at 10:00 a.m.

1) Why the decision of the Bankruptcy Judge converting this matter to a Chapter 7 proceeding should not be affirmed;

2) Why the Bankruptcy Court should not proceed forward with this matter; and

3) Why sanctions should not be imposed on him under Rule 11 of

the Federal Rules of Civil Procedure.

Baton Rouge, Louisiana, July 7, 1987.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
JULY 17, 1987
POLOZOLA, J.

IN RE:	CIVIL ACTION
JERALD LEE BARKSDALE	NO. 87-524-B

This matter came on this day on an order for Jerald Lee Barksdale to show cause why the decision of the bankruptcy judge converting this matter to a Chapter 7 proceeding should not be affirmed; why the bankruptcy court should not proceed forward with this matter; and why sanctions under Rule 11 should not be imposed.

PRESENT: J. L. Barksdale
in proper person

David Rubin
Attorney for the Bank of Zachary
Edna Latchem
Attorney for First Commerce Mortgage Corporation
Darne Johnson
Trustee

The parties present their arguments.

For the reasons read in the record, the Court orders that on or before July 31, 1987, J. L. Barksdale shall file a designation of and pay for any and all transcripts the Court needs to rule on appeal pertaining to whether or not the Chapter 11 proceeding should be converted to a Chapter 7 proceeding.

The bankruptcy clerk shall notify this Court whether or not Mr. Barksdale has complied with this order.

Upon the filing of the transcripts, the Court will set a briefing schedule.

Failure of J. L. Barksdale to comply with this order shall result in this appeal automatically being dismissed with prejudice.

The Court further orders that should the bankruptcy court order any additional credtors meeting, Mr. Barksdale shall

attend and sumbit to examination by the creditors if required.

Failure of Mr. Barksdale to attend the creditors meetings and submit to examination by the creditors when required to do so shall result in Jerald Lee Barksdale be held in civil contempt of this court.

* * * *

Champion/rep

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
AUGUST 31, 1987
POLOZOLA, J.

IN RE: JERALD L. BARKSDALE CIVIL ACTION
NUMBER 87-524-B

This matter is before the Court on an appeal taken by the debtor from a judgment rendered by the Bankruptcy Court which converted this case from a Chapter 11 proceeding to a Chapter 7 proceeding. The Court has reviewed the entire transcript and record of this proceeding and finds that the Bankruptcy Judge was correct in his decision. The record in this case clearly justifies and requires the action taken by the Bankruptcy Judge. This case shall and must be treated as a Chapter 7 proceeding.

The Court's review of this matter and other proceedings in this case requires the

Court to make an additional comment. Jerald Lee Barksdale has a right to appeal decisions made by the Bankruptcy Judge. He has a right to have his case heard by the Bankruptcy Court. However, "[N]o one rich or poor is entitled to abuse the judicial process." Hardwick v. Brinson, 523 F.2d 798, 800 (5th Cir. 1975).

A review of the record reveals that Mr. Barksdale has virtually made a career of filing frivolous, malicious and often libelous complaints and accusations against members of the federal and state judiciary and members of the Bankruptcy Clerk's office. It is obvious that Mr. Barksdale's conduct and many of the pleadings he has filed in connection with this matter clearly establishes the disdain and utter disregard that Mr. Barksdale has for the entire American judicial system and more specifically, the Middle District of Louisiana. It is also clear that Mr.

Barksdale intentionally refuses to comply with the rules and regulations of the Bankruptcy Code and the Federal Rules of Civil Procedure.

In light of Mr. Barksdale's clear abuse of the judicial process, the Court hereby issues a firm written warning to Mr. Barksdale that such conduct SHALL NOT be tolerated by the Court in the future.

Should Mr. Barksdale continue to abuse the judicial process of this Court, prompt, firm and appropriate sanctions shall be imposed by the Court.

The judgment of the Bankruptcy Court converting this proceeding from a Chapter 11 to a Chapter proceeding is AFFIRMED.

UNITED STATES DISTRICT JUDGE

NOTICE MAILED TO:
DATE 8/31/87 BY ___
Barksdale
Erfurt
Rubin
Johnson
MS
JG

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE: JERALD LEE BARKSDALE CIVIL ACTION

NO. 87-524-B

JUDGMENT

For the written reasons assigned:

IT IS ORDERED AND ADJUDGED that the judgment of the Bankruptcy Court converting this proceeding from a Chapter 11 to a Chapter 7 proceeding is AFFIRMED.

Baton Rouge, Louisiana, September 11, 1987

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE * CIVIL ACTION
* NO. 87-911-B
*
VERSUS *
*
ARCH V. DOUGHTY, ET AL *

MOTION AND ORDER TO DISMISS APPEAL

ON MOTION of the Bank of Zachary, and Appellant herein, and on representing to the court that on October 30, 1987, this Court ordered the Appellant to serve and file his brief on or before November 17, 1987, and that as of this date, undersigned counsel for the Bank of Zachary has not received service of the brief of Appellant, and therefore suggesting to the Court that this appeal should be dismissed with prejudice, at the cost of Appellant,

IT IS HEREBY ORDERED that this appeal is dismissed with prejudice, at the cost of Appellant JERALD LEE BARKSDALE.

ORDERED ENTERED at Baton Rouge, Louisiana this _____ day of November, 1987.

____

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
DECEMBER 16, 1987
POLOZOLA, J.

JERALD LEE BARKSDALE	CIVIL ACTION
VERSUS	NUMBER 87-911-B

ARCH V. DOUGHTY, SHERIFF
AND TAX COLLECTOR OF
EAST FELICIANA PARISH,
ET AL

This matter is before the Court on another appeal taken by Jerald Lee Barksdale from a ruling made by the United States Bankruptcy Judge for the Middle District of Louisiana. A review of the record reveals that this appeal is clearly frivolous and that judgment entered by the United States Bankruptcy Court should be affirmed for the reasons set forth hereinafter.

This matter came before the Bankruptcy Court on a motion of the Bank of Zachary for summary judgment and/or judgment of dismissal. On July 1, 1987, the Bankruptcy Judge rendered a judgment in favor of the Bank of Zachary. The judgment was signed by the Bankruptcy Court on July 5, 1987. The record reflects that the judgment was docketed on the records of the Bankruptcy Court on July 7, 1987. On July 20, 1987, the appellant filed a motion for rehearing on order to dismiss. In response to appellant's motion for rehearing, the Bank of Zachary filed a motion to dismiss on the grounds that the motion filed by the appellant was not timely under the provisions of Rule 59 of the Federal Rules of Civil Procedure and Rule 9023 of the Rules of Bankruptcy Procedure. It is clear that these two rules provide that a motion for new trial shall be served not later than ten days after entry of judgment. A

review of the record and the allegations made by the appellant before the Bankruptcy Court in his motion for rehearing clearly reveals that the motion was in essence a motion for a new trial. On July 28, 1987, the Bankruptcy Court denied Barksdale's motion for rehearing. In its ordered entered on July 28, 1987, the Bankruptcy Court held the "[t]he 'Motion for Rehearing on Order to Dismiss' is DENIED for the following reasons:"

(1) Movant has no authority to bring such a motion. The trustee is the plaintiff; the Debtor is no longer a debtor-in-possession and is not a party.

(2) 'Specification Number 1' is incorrect. The issue on appeal is the order converting the case to a case under Chapter 7. This adversary was never appealed and even if it had been, the

appeal would not have stayed proceedings: Bankruptcy Rule 8005.

(3) 'Specification Number 2 and 3' have nothing to do with the adversary proceeding.

(4) 'Specification Number 4' is simply untrue. The Debtor, prior to conversion when he did not have a right to oppose the motion, did not.

(5) The motion was not timely filed: Bankruptcy Rule 9023.

The Court has reviewed the record and finds that the motion for a new trial or, as designated by the appellant, a motion for rehearing was not timely filed within the provisions of Bankruptcy Rule 9023 and Rule 59 of the Federal Rules of Civil Procedure. The Court further finds

that even if the motion had been timely filed, conclusions reached by the Bankruptcy Judge in his order of July 28, 1987 are clearly supported by the record and are not clearly erroneous. See Rule 8013.

The court further finds that this appeal was frivolous. This Court has had occasion to review this record and in the past has warned the appellant that if he chose to continue to file frivolous motions with the Court, appropriate sanctions would be entered. The Bankruptcy Judge has already entered such a sanction on November 4, 1987 when the Bankruptcy Judge issued the following order: "The Debtor voluntarily entered the bankruptcy arena to stay foreclosure proceedings and now seeks to leave when it suite its purposes. The Debtor also seeks to flood the Court with pleadings and to attack the character of anyone who does not do his bidding. The

Debtor has seriously abused the legal process and therefore was enjoined from further proceedings." Because the Court finds that this appeal was frivolous, the Court finds that all costs and attorney's fees incurred by the appellee in answering this appeal should be imposed on the appellant. Therefore, counsel for the appellee shall submit to the Court within ten days a statement of costs and schedule of attorney's fees for the Court's approval. The appellant shall have five days to file an opposition to the amount of attorney's fees and costs requested by the appellee. The Court reserves the right to impose additional sanctions on the appellant during the course of this appeal should further sanctions be required.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE * CIVIL ACTION
* NO. 87-911-B
*
VERSUS *
*
ARCH V. DOUGHTY, ET AL *

ORDER ASSESSING COSTS AND ATTORNEY'S FEES

CONSIDERING, this Court's Minute Entry of December 16, 1987, and

CONSIDERING the Statement of Costs and Attorney's Fees filed by counsel for the Bank of Zachary, as required by the Minute Entry,

IT IS HEREBY ORDERED that Jerald Lee Barksdale is hereby assessed costs of $6.60 and attorney's fees of $250.00 in this matter.

IT IS FURTHER ORDERED that Jerald Lee Barksdale shall pay these costs and attorney's fees to counsel for the Bank of Zachary within 30 days from the date of this Order.

SO ORDERED at Baton Rouge, Louisiana, this 30th day of December, 1987.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE	CIVIL ACTION
versus	NO. 87-911-B

ARCH V. DOUGHTY, SHERIFF
AND TAX COLLECTOR OF
EAST FELICIANA PARISH,
ET AL

JUDGMENT

For the written reasons assigned:

IT IS ORDERED AND ADJUDGED that the judgment entered by the United States Bankruptcy Court is affirmed.

Baton Rouge, Louisiana, February 16, 1988.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE CIVIL ACTION

VERSUS NUMBER 88-36-B

BANK OF ZACHARY

ORDER

The appellant having failed to timely designate an appeal record:

IT IS ORDERED that this appeal be dismissed with prejudice.

Baton Rouge, Louisiana, August 9, 1988.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE	CIVIL ACTION
versus	NO. 88-36-B
BANK OF ZACHARY	

JUDGMENT

For the written reasons assigned:

IT IS ORDERED AND ADJUDGED that judgment shall be entered dismissing plaintiff's appeal with prejudice.

Baton Rouge, Louisiana, August 10, 1988.

UNITED STATES DISTRICT JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE:	§	NUMBER
	§	86-00495-BKC-WWS
	§	
JERALD LEE BARKSDALE	§	
	§	
DEBTOR	§	A REORGANIZATION
	§	CASE
	§	
BANK OF ZACHARY	§	
	§	
MOVANT	§	
	§	
VERSUS	§	A CONTESTED MATTER
	§	
JERALD LEE BARKSDALE	§	
	§	
RESPONDENT	§	

ORDER

THIS MATTER came up for hearing on Motion of the Bank of Zachary. Present in Court: David S. Rubin, attorney for the Bank of Zachary; Jerald Lee Barksdale, in proper person.

CONSIDERING the testimony of the witnesses, the evidence presented, the law and evidence being in favor thereof, for reasons orally assigned,

IT IS HEREBY ORDERED that the automatic stay of title 11 United States Code is hereby modified and vacated in favor of the Bank of Zachary, and the Bank of Zachary is authorized to proceed to foreclose on its collateral, appearing in bidding at any judicial sale thereon, and naming the Debtor as a defendant in such proceedings.

IT IS FURTHER ORDERED that the motion of the Bank of Zachary seeking dismissal or conversion of this case is vacated, having been voluntarily withdrawn by the Bank of Zachary.

ORDER ENTERED at Baton Rouge, Louisiana, June 11, 1986.

ORDER SIGNED at Baton Rouge, Louisiana, June 13th, 1986.

UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE CASE NO. 86-00495
(S.S. #436-40-1194)

DEBTOR

TRANSMITTAL OF "MOTION OF JERALD LEE BARKSDALE REQUESTING RECUSATION OF HONORABLE WESLEY W. STEEN" TO THE UNITED STATES DISTRICT COURT WITH RECOMMENDATIONS

This case was filed in proper person on April 15, 1986. The only activity in the case,, other than the creditors' meeting held on May 9, 1986, was a motion for relief from the Sec. 362 stay order filed by the Bank of Zachary on May 14, 1986. A hearing was held on June 11, 1986, on the motion of the Bank of Zachary for relief from the stay; the motion was granted and an appeal was taken by the Debtor. That appeal has not yet been transmitted to the district court, awaiting transcripts.

In the interim the Debtor has filed a motion to recuse the bankruptcy judge in connection with the case. That motion is transmitted to the district court with these comments and recommendations:

(1) The motion is difficult to understand. The basis of the motion seems to be that the law firm of Sanders, Downing, Kean & Cazedessus "has opposed Plaintiff since at least as early as 31 October 1962." The issues involved in the alleged "opposition" are not clear, but seem to involve a Texas probate proceeding with an ancillary probate in Louisiana. There is an allegation that John Dale Powers and Michael Rubin, while associated with Sanders, Downing, Kean & Cazedessus, filed declinatory and dilatory exceptions, presumably representing a party adverse to the Plaintiff, on July 20, 1977.

(a) The undersigned bankruptcy judge was a law clerk with Sanders, Downing, Kean & Cazedessus from mid-1972 until mid-1974. I was an associate with that firm from 1974 through mid-1977 and a partner from 1977 through February, 1980.

(b) The motion does not allege that the undersigned bankruptcy judge ever personally participated in the referenced succession proceedings, or in any other proceeding, against the Debtor. The undersigned bankruptcy judge has no present recollection of ever having participated in any proceeding against the Debtor or of ever having heard of the Debtor prior to the motion for relief from the stay referenced in this report.

(2) The alleged improper connexity between the undersigned bankruptcy judge and the instant proceeding is unclear from the motion, but is apparently alleged as having three bases:

(a) Allegedly John Dale Powers is currently involved in litigation involving the Debtor. Apparently the allegation is that since since the undersigned bankruptcy judge and John Dale Powers were in the same law firm from 1972 until 1980, there is some impropriety in the undersigned bankruptcy judge's currently hearing the Debtor's case.

(b) Because the undersigned bankruptcy judge was associated with the law firm that allegedly was representing an adversary party to the Debtor from 1972 until 1977 (the last date stated in the

motion for adversary relationship between Sanders, Downing, Kean and Cazedessus and the Debtor), there is impropriety in the undersigned bankruptcy judge's hearing the referenced case.

(c) Because David Rubin, attorney for the Bank of Zachary, is the brother of Michael Rubin, then there is some impropriety in the undersigned bankruptcy judge's hearing the Debtor's case. In connection with this issue, it is of course correct that Michael Rubin and the undesigned bankruptcy judge were associated with the same law firm during the periods 1973 to 1980 and 1983 to 1984. The undersigned bankruptcy judge has never been associated in the practice of law with David Rubin.

Because more than six years have passed since the undersigned bankruptcy judge was associated with any law firm that represented an interest adverse to the Debtor, because the last adverse representation with respect to that law firm was apparently nine years ago, because the undersigned bankruptcy judge was apparently never personally involved in representing any adverse party to the Debtor, and because the undersigned bankruptcy judge has never been associated in the practice of law with the attorney representing a creditor in the case but at most was associated in the practice of law with the brother of the attorney representing a creditor in the case, the undersigned bankruptcy judge does not believe that he should recuse himself from hearing this case. The undersigned bankruptcy judge affirmatively represents that he has no personal bias or prejudice concerning any

party or counsel involved in this proceeding and has no personal knowledge of any disputed evidentiary facts concerning the proceeding. The undersigned bankruptcy judge further certifies that to the best of his knowledge neither he (individually or as a fiduciary) nor any relative has any financial interest in the subject matter of the bankruptcy proceeding.

Therefore, the undersigned bankruptcy judge declines to disqualify himself under the provisions of 28 U.S.C. Sec. 455.

The Debtor has requested that the undersigned bankruptcy judge proceed no further in this case under the authority of 28 U.S.C. Sec. 144 and had filed an appropriate affidavit. It would appear that the definition of "judge" in 28 U.S.C. Sec. 451 does not include bankruptcy judges, but there would appear to be no similar procedure established with respect to bankruptcy judges. Therefore, the

undersigned bankruptcy judge exercises discretionary caution in proceeding no further, utilizing a procedure modeled on 28 U.S.C. Sec. 144, even if that provision does not specifically apply.

Since the allegations of the motion to recuse are tied to any, even "thin", association with the law firm of Sanders, Downing, Kean & Cazedessus for the period 1962 through 1977, the undersigned bankruptcy judge respectfully suggests that this issue be referred to Division B of the United States District Court for the Middle District of Louisiana.

Baton Rouge, Louisiana, September 4, 1986.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE :
:
JERALD LEE BARKSDALE : CASE NO. 86-00495
:
:
:
DEBTOR(S) :

ORDER

The motion of the Bank of Zachary, a creditor of the above-named debtor to convert this Chapter 11 case to a liquidation case under Chapter 7 of Title 11 of the United States Code having been heard on March 4, 1987, after due notice of the hearing that had been given my mail to the debtor,

IT IS ORDERED THAT:

1. Mr. Reginald Laurent be enrolled as counsel for the above-named debtor.
2. This hearing be continued to May 12, 1987, at 9:00 a.m. At this time, the Debtor will be allowed an opportunity to

show prospects for revenues sufficient to fund its plan.

3. The Debtor file a plan or reorganization and disclosure statement by April 24, 1987.

4. The Debtor become current with all requirements of local rules by March 20, 1987.

Baton Rouge, Louisiana, March 9, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE:	§	CASE NO. 86-00495
	§	
JERALD LEE BARKSDALE	§	
	§	
DEBTOR	§	A REORGANIZATION CASE

ORDER FOR RULE 2004 EXAMINATION

The Bank of Zachary, a party-in-interest, having moved this Court to enter an order compelling the examination of the Debtor, pursuant to Rule 2004 of the Rules of Bankruptcy Procedure on April 28, 1987, such motion is hereby granted. The Debtor shall further produce the following documents:

a. Tax returns (federal and state) for 1980-1986.

b. All monthly financial reports filed with this Court.

UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE :
:
JERALD LEE BARKSDALE : CASE NO. 86-00495
SSN: 436-40-1194 :
:
DEBTOR(S) :

ORDER FOR HEARING ON DISCLOSURE STATEMENT AND FIXING TIME FOR FILING OBJECTIONS TO APPROVAL OF DISCLOSURE STATEMENT, COMBINED WITH NOTICE THEREOF

To the debtor(s), his/its/their creditors, equity security holders (or stockholders) and other parties in interest:

An order for relief under 11 U.S.C. Chapter 11 having been entered on a petition filed by the above-named debtor(s) on April 15, 1986, and a disclosure statement having been filed, pursuant to 11 U.S.C. Sec. 1125 and Rule 3016 of the Bankruptcy Rules, on April 24, 1987,

IT IS ORDERED AND NOTICE IS HEREBY GIVEN that a hearing in the above-entitled

case will be held in the United States Bankruptcy Courtroom (Room 304), 412 North Fourth Street, Baton Rouge, Louisiana, on the 1st day of June, 1987, at 3:00 P.M., to consider and act upon the following:

(1) the adequacy of the information contained in the disclosure statement and any objections or modifications thereto;

(2) fix a time within the holders of claims and interests may accept or reject the plan;*

(3) fix a date for hearing on confirmation of the plan.

IT IS FURTHER ORDERED AND NOTICE IS HEREBY GIVEN that objections, if any, to the disclosure statement shall be in writing and filed with the Court and a copy served on the debtor's(s') attorney, Reginald J. Laurent, Attorney, 2767 Sgt. Alfred Drive, Suite 202, Slidell, Louisiana 70458, at least two (2) full

business days before the hearing. Any objections not filed and served may be deemed waived.

IT IS FURTHER ORDERED that on or before May 4, 1987, the attorney for the debtor(s) shall mail to all creditors and other parties in interest a copy of this order and notice and shall serve copies of the proposed disclosure statement and proposed plan upon the attorney for the creditors' committee (if any), and on each member of the creditors' committee and the Securities and Exchange Commission (if debtor is a corporation). The attorney for the debtor(s) shall also send copies, without charge, to each creditor and shareholder who requests copies from said attorney.

The proposed disclosure statement and plan may be reviewed at the office of the Clerk of the Bankruptcy Court, Room

301, 412 North Fourth Street, Baton Rouge, LA.

The hearing may be adjourned from time to time by announcement made in open court without further written notice to parties in interest.

Baton Rouge, Louisiana, April 30, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE
MIDDLE DISTRICT OF LOUISIANA
Room 301,412 North Fourth Street
Baton Rouge, Louisiana 70802
Telephone: (504) 389-0211

* NOTE: The purpose of the disclosure statement is to enable creditors and investors to make informed judgments about a reorganization plan. After the disclosure statement will have received approval of the Court, copies of the plan and disclosure statement will be mailed to creditors, equity security holders, and other parties in interest for their acceptance or rejection of the plan. See 11 U.S.C. Sec. 1125.

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE :
:
JERALD LEE BARKSDALE : CASE NO. 86-00495
:
:
:
DEBTOR(S) :

ORDER

The Bank of Zachary having filed (on April 3, 1987) a motion to convert this case and having noticed a hearing to consider this motion on May 13, 1987, at 9:00 a.m., and the said Bank of Zachary having filed (on April 8, 1987) a motion withdrawing its motion filed on April 3rd.

IT IS ORDERED that the Bank of Zachary be and it hereby is allowed to withdraw its motion to convert this case only insofar as it pertains to the motion filed on April 3, 1987, without prejudice, and the hearing scheduled to consider this motion in May

13, 1987, at 9:00 a.m., be and it hereby is cancelled.

Baton Rouge, Louisiana, May 3, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTY JUDGE

UNITED STATES BANKRUPTCY COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:

DATE: May 18, 1987

IN RE: 86-00495 JERALD LEE BARKSDALE
(Reginald J. Laurent)

MATTER:

(1) Hearing on motion to convert case to Chapter 7 filed by Bank of Zachary (refixed from 3/4/87 and 5/12/87) (David S. Rubin, Attorney)

(2) Hearing on approval of disclosure statement filed by Bank of Zachary; objection by Debtor

APPEARANCES:

Jerald Lee Barksdale
Debtor

Reginald J. Laurent
Attorney for Debtor

David S. Rubin
Attorney representing Bank of Zachary

Edna Latchem
Attorney representing Dollar Savings Bank

WITNESSES:

Jerald Lee Barksdale
Edna Latchem
Leo L. Brassett
Theodore Alan Shirmer

RULING:

The case is converted to a Chapter 7. The Clerk is to supply the order. The Disclosure Statement issue therefore is moot.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE :
:
JERALD LEE BARKSDALE : CASE NO. 86-00495
(SS# 436-40-1194) :
:
DEBTOR(S) :

O R D E R

The Bank of Zachary, a creditor of the above-named debtor, having filed a motion pursuant to Title 11 of the United States Code Sec. 1112(b), for conversion of this case from a case under Chapter 11 of Title 11 of the United States Code to a case under Chapter 7 said motion having been heard on May 18, 1987, after due notice to the debtor, the debtor's attorney, the creditors and all parties in interest.

After hearing and for reasons explained in open court, it is

ORDERED that the above entitled case under Chapter 11 of Title 11 of the United

States Code be and it hereby is converted to a case under Chapter 7 of said Title 11.

Baton Rouge, Louisiana, May 20, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE CASE NO. 86-00495

DEBTOR

ORDER

Debtor's motion for rehearing is DENIED.

Baton Rouge, Louisiana, June 5, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE CASE NO. 86-00495

DEBTOR

REASON FOR DENIAL OF MOTION FOR REHEARING

An order was entered on June 5, 1987, denying Movant's motion for a new trial. The reasons are straightforward:

This case has been pending since April 15, 1986. I have been through the schedules and the entire case record several times.

There is no evidence that the Debtor has a business or any financial enterprise of substance to reorganize. I cannot even discern any substantial assets for distribution in a Chapter 7 liquidation. The substance of the Debtor's motion for new trial are vague accusations of misconduct by several members of the bar plus the

undersigned Bankruptcy Judge as well as Judge West and Chief Judge Parker. So far as I can tell, these have no substance. Motions to recuse the undersigned have been dismissed by the Fifth Circuit.

The Debtor has unlimited hopes, dreams, and pride. I wish him well, but I am sworn to apply the law, not to give him free rein to engage his dreams.

Baton Rouge, Louisiana, June 5, 1987

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE:	§	CASE NO. 86-00495
	§	
JERALD LEE BARKSDALE	§	
	§	
DEBTOR	§	
JERALD LEE BARKSDALE	§	ADVERSARY
	§	PROCEEDING
PLAINTIFF	§	NUMBEER 87-0058
	§	
VERSUS	§	
	§	
ARCH V. DOUGHTY,	§	
SHERIFF AND TAX	§	
COLLECTOR OF EAST	§	
FELICIANA PARISH,	§	
AND BANK OF ZACHARY	§	
	§	
DEFENDANTS	§	

JUDGMENT

THIS MATTER came up for hearing on motion of the Bank of Zachary seeking summary judgment and/or for judgment of dismissal.

CONSIDERING the pleadings filed by the Bank of Zachary, the record in this matter, the evidence presented, and law and evidence appearing in favor thereof, for reasons orally assigned.

IT IS HEREBY ORDERED that the motion for summary judgment in favor of the Bank of Zachary is hereby GRANTED, and this case is hereby DISMISSED.

JUDGMENT ENTERED at Baton Rouge, Louisiana, July 1, 1987.

JUDGMENT SIGNED at Baton Rouge, Louisiana, July 5, 1987.

UNITED STATED BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE CASE NO. 86-00495

DEBTOR

JERALD LEE BARKSDALE

PLAINTIFF ADVERSARY NO. 87-0058

VERSUS

ARCH V. DOUGHTY, SHERIFF AND TAX
COLLECTOR OF EAST FELICIANA PARISH;
AND BANK OF ZACHARY

DEFENDANTS

ORDER

The "Motion for Rehearing on Order to Dismiss" is **DENIED** for the following reasons:

(1) Movant has no authority to bring such a motion. The trustee is the plaintiff; the Debtor is no longer a debtor-in-possession and is not a party.

(2) "Specification Number 1" is incorrect. The issue on appeal is the order converting the case to a case under

Chapter 7. This adversary was never appealed and even if it had been, the appeal would not have stayed proceedings: Bankruptcy Rule 8005.

(3) "Specification Number" 2 and 3 have nothing to do with the adversary proceeding.

(4) "Specification Number 4" is simply untrue. The Debtor, prior to conversion when he did have a right to oppose the motion, did not.

(5) The motion was not timely filed: Bankruptcy Rule 9023.

Baton Rouge, Louisiana, July 28, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATED BANKRUPTCY COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
STEEN, J.

DATE: August 26, 1987

IN RE: 87-0038 (Adv.) JERALD LEE BARKSDALE
versus
BANK OF ZACHARY

Related case:
86-00495
Jerald Lee Barksdale

MATTER:

Hearing on motion of Bank of Zachary seeking order compelling discovery; protest filed by Debtor

APPEARANCES:

Jerald Lee Barksdale,
Plaintiff

David S. Rubin,
Attorney representing Defendant, Bank of Zachary

Derren S. Johnson,
Trustee

RULING:

All Barksdale hearings are continued to September 9, 1987, at 9:00 a.m. The status conference in this case for August 27, 1987, is cancelled.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
STEEN, J.

DATE: September 9, 1987

IN RE: 86-00495 JERALD LEE BARKSDALE
(in proper person)

MATTER:

(1) Hearing on motion of Bank of Zachary to except case from dismissal due to failure of Debotr to appear at scheduled 341 (a) meeting of creditors (cont'd from 7/15/87 and 8/26/87)

(2) Objection to dismissal of case and/or application for allowance of compensation filed by Derren S. Johnson, trustee (cont'd from 7/15/87 and 8/26/87)

Protest by Debtor to hearings

APPEARANCES:

David S. Rubin,
Attorney for Bank of Zachary

Derren S. Johnson,
Trustee

RULING:

The motion to except case from dismissal is granted.

The Clerk shall set the case for Sec. 341 (a) meeting and have an order served on the Debtor by a U.S. Marshal.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE, CASE NO. 86-00495
(S.S. No. 436-40-1194)

DEBTOR(S)

NOTICE OF RESCHEDULED MEETING OF CREDITORS AND NOTICE OF RESCHEDULED DISCHARGE HEARING

To the debtor, his attorney, creditors and other parties in interest:

NOTICE IS HEREBY GIVEN that the date of the meeting of creditors pursuant to 11 U.S.C. § 341(a) has been refixed, and accordingly, will be held on the 7th day of October, 1987, at 4:00 O'clock p.m.

NOTICE IS ALSO GIVEN that the last day for filing objections to the discharge and complaints to determine dischargeability of debts of said debtor remains unchanged (August 21, 1987).

NOTICE IS ALSO HEREBY GIVEN that the date of the hearing on discharge pursuant to 11 U.S.C. § 524(d) has been refixed from September 16, 1987 at 1:30 p.m. to October 14, 1987, at 1:30 p.m.

Baton Rouge, Louisiana, September 14, 1987.

DORA A. ERFURT, CLERK
UNITED STATES BANKRUPTCY COURT
MIDDLE District of Louisiana
412 North Fourth Street,
3rd Floor
Baton Rouge, Louiaiana 70802
Telephone: (504) 389-0211

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE: § CASE NUMBER 86-00495
§
JERALD LEE BARKSDALE §
§
DEBTOR §

JERALD LEE BARKSDALE § ADVERSARY PROCEEDING
§ NUMBER 87-0038
PLAINTIFF §
§
VERSUS §
§
BANK OF ZACHARY §
§
DEFENDANT §

JOINT MOTION AND ORDER OF DISMISSAL WITH PREJUDICE

ON MOTION of all parties to this litigation, each appearing through their undersigned counsel, and each representing to this Corut that the desire to dismis this litigation with prejudice, with each party to bear their own costs and attorneys fees,

IT IS HEREBY ORDERED that all claims in this litigation are dismissed with

prejudice, with each party to bear their own costs and attorneys fees.

ORDER SIGNED at Baton Rouge, Louisiana, this 16th day of September, 1987.

UNITED STATES BANKRUPTCY JUDGE

By Attorneys,

KANTROW, SPAHT, WEAVER & BLITZER
P.O. Box 2997
Baton Rouge, LA 70821-2997
Telephone (504) 383-4703

By: ______________________________
David S. Rubin
Attorneys for Bank of Zachary

DERREN S. JOHNSON
4264 Perkins Road
Baton Rouge, LA 70808
Telephone (504) 389-9616

____
Trustee of Jerald Lee Barksdale

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE:	§	CASE NUMBER 86-00495
	§	
JERALD LEE BARKSDALE	§	
	§	
DEBTOR	§	
JERALD LEE BARKSDALE	§	ADVERSARY PROCEEDING
	§	NUMBER 87-0038
PLAINTIFF	§	
	§	
VERSUS	§	
	§	
BANK OF ZACHARY	§	
	§	
DEFENDANT	§	

ORDER

THIS MATTER came up for hearing on motion of Derren S. Johnson, Trustee, to settle litigation. Present in Court: Derren S. Johnson, Trustee; and David S. Rubin, attorney for the Bank of Zachary.

CONSIDERING the pleadings filed in this adversary proceeding, the case in chief, the allegations of the motion, the law and evidence appearing in favor thereof, for reasons orally assigned,

IT IS HEREBY ORDERED that the Trustee is hereby authorized to settle this litigation on the terms generally set forth in her motion.

JUDGMENT RENDERED September 9, 1987.

JUDGMENT SIGNED September 16, 1987.

UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE	
JERALD LEE BARKSDALE	CASE NO. 86-00495
DEBTOR	
JERALD LEE BARKSDALE	
PLAINTIFF	ADVERSARY NO. 87-0038
VERSUS	
BANK OF ZACHARY	
DEFENDANT	

ORDER

For reasons separately set forth this date, Plaintiff's motion for rehearing of matters heard September 9, 1987, is DENIED.

Baton Rouge, Louisiana, September 21, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE CASE NO. 86-00495

DEBTOR

JERALD LEE BARKSDALE

PLAINTIFF ADVERSARY NO. 87-0038

VERSUS

BANK OF ZACHARY

DEFENDANT

REASONS FOR DENIAL OF MOTION FOR REHEARING OF MATTERS HEARD ON SEPTEMBER 9, 1987

On September 16, 1987, the Debtor filed a motion for rehearing of matters heard on September 9, 1987. The matter heard on September 9, about which the Debtor complains, is a motion to approve a settlement of this adversary proceeding, 87-0038.

As recognized in the motion for rehearing, the compromise was originally

scheduled for hearing on August 26. The Debtor attended that hearing.

The motion alletes in paragraph 5 and I stated at the August 26 hearing "All matters will be rescheduled after the District Judge reviews the transcripts." The Debtor's statement in paragraph 5 is not accurate.

The Debtor alleges in paragraph 6 that I stated at the August 26 hearing "I will call him (District Judge) about it." That statement is incorrect.

The Debtor alleges in paragraph 7 that subsequent to the August 26 hearing a ruling was issued which set the September 9 hearing date. That statement is incorrect.

The Debtor alleges in paragraph 8 of his motion that he was not notified of the change of date, did not receive a copy of the ruling, and was without knowledge of the hearing date. I do not know whether the Debtor received a copy of the minute

entry setting the hearing on September 9, but I know for a certainty that the Debtor knew of the new hearing date. The Debtor alleges in paragraph 9 that he did not learn of the September 9 hearing unitl September 10 when he accidentally discovered it. That statement is not correct.

In ruling on this motion I personally listened to the electronic tape recording of the August 26 hearing. At that hearing Mr. Rubin moved to continue all hearings set in the Barksdale matters (including the motion to compromise the adversary proceeding) to September 9 when other hearings had already been scheduled in the Barksdale matters. The tape recording shows that I specifically inquired of Mr. Barksdale whether he had any objection to that continuance, and he stated that he had none; in fact, some matters were continued to September 9 at Mr. Barksdale's

request. After hearing Mr. Rubin's motion and Mr. Barksdale's objection to hearing any matters before September 9, the tape recording contains a period of silence during which handwrote the minute entry, and then the tape recording shows that I specifically announced in court that all hearings int he Barksdale matters were continued until September 9. Since Mr. Barksdale was in attendance, he had personal knowledge of continuance.

The motion for rehearing contains the statement in paragraph 6 that I indicated that I would call Judge Polozola about the case. The tape recording shows the statement to be that I would send a communication to Judge Polozola requesting determination of the appeal prior to September 9 so that these matters could be heard on September 9.

Since Mr. Barksdale had personal notice of the continued hearing to

September 9, the allegations of the motion for rehearing are not correct and the motion for rehearing is denied by separate order entered on this date.

Bato Rouge, Louisiana, September 21, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

JERALD LEE BARKSDALE * CASE NO. 86-00495

PLAINTIFF-APPELLANT *

JERALD LEE BARKSDALE *

DEBTOR IN POSSESSION *

VERSUS *

DERREN S. JOHNSON, *
ATTORNEY
AND COURT APPOINTED
TRUSTEE

DEFENDANT *

ORDER

The foregoing petition considered, and the court being satisfied that the Petitioner, Jerald Lee Barksdale and others, will suffer immediate, and irreparable damage before notice can be served, and a hearing had on Petitioner's application for a Preliminary Injunction:

IT IS FURTHER ORDER that Derren S. Johnson, Trustee, appears and show cause at 2:00 p.m. November 4, 1987, why a

Preliminary Injunction in the form and substance of the Temporary Restraining Order should not issue; and at that time proof may be adduced from verified Pleadings, affidavits or as in Ordinary Cases.

IT IS FURTHER ORDERED that Jerald Lee Barksdale appear at the same hearing and show cause why he should not be enjoined and sanctioned for filing harassing and frivilous litigation.

Baton Rouge, Louisiana October 21, 1987.

JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE CASE NO 86-00495

DEBTOR

JERALD LEE BARKSDALE

PLAINTIFF ADVERSARY NO. 87-0181

VERSUS

DERREN S. JOHNSON, ATTORNEY AND
COURT APPOINTED TRUSTEE

DEFENDENT

INJUNCTION

The Debtor is enjoined from filing any complaints, motions, or other documents concerning the Bank of Zachary, the validity of any claims held by the Bank of Zachary, or relating to property of the estate (including claims against the Bank of Zachary) or claims against the estate. The Debtor is further enjoined from communicating with the trustee concerning these subjects except to respond to

requests by the trustee for information. This injunction specifically includes any attempt to challenge or relitigate a judgment obtained in Louisiana State Court by the bank of Zachary against the Debtor. This injunction does not apply to any appeals in progress or to an appeal of this order.

Baton Rouge, Louisiana, November 4, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE

JERALD LEE BARKSDALE   CASE NO. 86-00495

DEBTOR

JERALD LEE BARKSDALE

PLAINTIFF   ADVERSARY
NO. 87-0181

VERSUS

DERREN S. JOHNSON, ATTORNEY AND
COURT APPOINTED TRUSTEE

DEFENDANT

REASONS FOR DECISION

The Debtor filed a complaint for an injunction seeking to enjoin the trustee from imposing "an unwarranted threat to petitioner's life," and from inflicting "unwarranted and irreparable damages to petitioner's health." The Court denied the Debtor's request for a temporary restraining order, but issued an order on October 21, 1987, to hear the complaint for an injunction. The order issued October 21

further stated "it is further ordered that Jerald Lee Barksdale appear at the same hearing and show cause why he should not be enjoined and sanctioned for filing harassing and frivilous litigation."

After thorough and detailed examination of the Debtor, the Court could discover no impropriety in the trustee's conduct. The theory under which the Debtor bases his request for an injunction is as follows. The Debtor contends that he owns substantial property, particularly a home, a life insurance policy, and various patents and licenses. The Debtor contends that the trustee has taken possession of these assets, therby depriving the Debtor of "funds available," and thus depriving the Debtor of his ability to obtain necessary medical care. The Debtor's theory simply has no basis.

First, the trustee reports that she has not taken possession of the Debtor's

home nor has she taken possession of the Debtor's life insurance policy. She has requested a copy of the life insurance policy, and this somehow the Debtor contends prevents him from getting the value of that policy. The Court ordered the trustee to abandon the home which the trustee contends is overencumbered and directed the trustee not to take any action with respect to the life insurance policy which apparently constitutes exempt property. With respect to these two assets the Debtor's contentions are thus simply unfounded.

With respect to the patents and licenses, one must know a great deal more about this case before one understands my conclusions with respect to that property. That history will be discussed in more detail in the remainder of these reasons, but for the present, it is sufficient to say that in prior hearings

the Court determined that the Debtor has never, or at least not in the memorable past, received any income from this property and is not able to realize any cash from this property. Therefore, the Debtor's contentions with respect to these assets are unfounded.

With respect to the patents and licenses, one must know a great deal more about this case before one understands my conclusions with respect to that property. That history will be discussed in more detail in the remainder of these reasons, but for the present, it is sufficient to say that in prior hearings the Court determined that the Debtor has never, or at least not in the memorable past, received any income from this property and is not able to realize any cash from this property. Therefore, the Debtor's contentions with respect to these assets are unfounded.

The Debtor was then enjoined from filing further pleadings in the case. I recognize that this is a highly unusual and severe step. It was taken only after long and agonizing consideration of the facts of which the Court is personally aware from previous hearings and from a thorough examination of the case record. Those facts are as follows:

This case was filed April 15, 1986, as a Chapter 11 case. The Debtor filed the case in proper person. On June 11, 1986, there was a hearing on the Bank of Zachary's motion for relief from the stay and its motion to convert or dismiss the case. The Court took great pains to encourage the Debtor to obtain counsel prior to the hearing, and when the Debtor did not do so, the Court took great pains to assist the Debtor in understanding the proceeding and in responding to the bank's allegations. Nevertheless, by clear

preponderance of the evidence the bank was entitled to the relief sought, and the motion for relief from the stay was granted. The Debtor appealed that decision, as the Debtor has appealed virtually all decisions in this case. As in other appeals, and as in virtually all pleadings that the Debtor files, there is a loose and disconnected series of allegations of impropriety, conflicts of interest, prejudice against the Debtor, etc. The District Court affirmed the decision on the motion to lift the stay; there was an appeal to the Fifth Circuit which was dismissed. The Debtor asked that the bankruptcy judge recuse himself in the case because many years before the bankruptcy judge had been a member of a law firm which represented the Debtor's sister in litigation between the Debtor and his sister. The bankruptcy judge declined to recuse himself because he had never

participated in the case, because the bankruptcy judge had been separated from the firm for several years prior to taking the bench, and because to the best of my understanding the litigation in question had ended even several years before the termination of the bankruptcy judge's relationship with that firm. That decision was sustained on appeal. In the spring of 1987 the Debtor engaged counsel who reported to the Court that he was accepting the case pro bono. Counsel withdrew a few months later. The Debtor filed a plan of reorganization on April 24, 1987. The plan of reorganization was not confirmed, and on June 5, 1987, the Court denied the Debtor's motion for a rehearing.

The best single source of information with respect to this case is a transcript of the hearing on the motion to convert or dismiss and for confirmation of the Debtor's plan. Even that, however, is only

part of the story because one has to have some experience with this case before one understands its flavor. To oversummarize, however, one can say that the Debtor was once a very successful contractor, but that was many years ago. The Debtor subsequently engaged in substantial amounts of litigation concerning some alleged patents and trademarks. but in the past few decades the Debtor has not realized any substantial income from those sources. In addition, the Debtor claims to be a world's leading authority with respect to nutrition of animals and some novel engineering techniques and processes designed to revolutionize the building industry, but has not realized any income from those sources. The Debtor contends that he is a farmer, and that contention is based essentially on the fact that he was once a farmer, paid social security tax on the self-employment earnings, and now receives

disability social security benefits; he therefore claims that his income is now farming income since the social security benefits he receives are derived from taxes paid on farming income. The Debtor has some disability that the Court does not fully understand; it is not clear whether the disability is totally physical, totally mental, or both. For whatever cause, however, the Debtor is unable to engage in gainful employment at the present time, and his sole source of income (apart from his wife's income) is social security disability payments. This has been true for an extended period of time. The Debtor has dreams, however, and those dreams related to construction as in days past. The Debtor has some feeling that the Bank of Zachary somehow has destroyed his dreams through some vaguely conceived misconduct.

The Debtor filed an appeal of the Court's decision to convert the case to a

case under Chapter 7 for inability of the Debtor to confirm a plan of reorganization. The Debtor appealed that decision on June 8, 1987, in a long and rambling pleading that accuses dozens of members of the Baton Rouge bar with conspiracy and improper conduct, including a Judge of the 19th Judicial District Court, the bankruptcy judge, the Chief District Judge of this Court, and a District Judge of this Court on Senior status. The alleged improprieties with respect to these judges, in particular, is that at one time or another in their legal careers they were associated with parties who at one time or another during their lives were adverse to the Debtor either directly in unrelated litigation or by association in law firms with lawyers who represented persons in some decades past who were adverse to the Debtor. The Debtor has accused the Clerk of the Bankruptcy

Court of impropriety and for being prejudiced against the Debtor because while a legal secretary to the Honorable Alvin Rubin (who was then practicing law) the secretary witnessed a document in which the Debtor either acquired or transferred property or mortgaged property.

A new creditor's meeting was scheduled because of the conversion of the case to Chapter 7. The Debtor did not attend that creditors' meeting; under local rules, the Court would dismiss the proceeding for failure of the Debtor to attend the creditors' meeting, but a party objected to the dismissal to take place. I am now convinced that the Debtor intentionally did not attend his creditors' meeting to invoke the local rule provision for dismissal. Under local rules, a case is noticed for dismissal if a debtor does not attend a creditors' meeting. The local rule states that the case will be dismissed unless the

debtor takes some actio to avoid the dismissal. However, the practice is to notice the case for dismissal as provided by the Bankruptcy Code since there are other interests that may be affected. On several occasions the Court has not dismissed the cases when so requested by a party in interest. The Debtor has contended that the failure to dismiss the case is improper because under the Debtor's interpretation of local rules the case must be dismissed. The Court has never accepted this interpretation of the local rules since it would be tantamount to giving the Debtor an unlimited and unfettered right to dismiss contrary to the provisions of the Bankruptcy Code.

The Debtor, however, continues to urge that issue despite its denial on several occasions, and the Debtor raises it in other pleadings regularly. As of late, the Debtor has begun filing motions to set

aside judgments and for various other relief vaguely defined in the pleadings. Dozens and dozens of attachments are filed with each pleading; reviewing the motions required precious hours. Three of these motions were filed on October 9; virtually identical motions were filed October 21, and virtually identical motions are attached to the adversary proceeding set for hearing on Wednesday, November 4. The relief sought by the motions is unclear. The Debtor alleges all sorts of fraud and improper conduct, most of which on the face of the documentation clearly does not constitute fraud. The Debtor apparently also is seeking to have the Court set aside, on the basis of fraud, a state court judgment; the Debtor relies on Rule 60 of the Federal Rules of Civil Procedure and therefore is apparently totally improper. The Court has attempted to view these pleadings in the light most favorable to

the Debtor, but it is almost impossible to do so because of the confusing and rambling nature of the pleadings. The clearest pleading filed by the Debtor is this allegation that the trustee was causing the Debtor health problems which, on examination, proved to be untrue as indicted at the beginning of these reasons.

The real thrust of the Debtor's complaint is that the trustee is exercising control over property of the estate and therefore the Debtor cannot use this property to buy medicine. As indicated, it is clear that the trustee is not exercising control over this property, and it is also clear that the Debtor's real concern is to get out of bankruptcy. The Debtor voluntarily entered the bankruptcy arena to stay foreclosure proceedings and now seeks to leave when it suits his purposes. The Debtor also seeks to flood the Court with pleadings and to attack the character of

anyone who does not do his bidding. The Debtor has seriously abused the legal process and therefore was enjoined from further proceedings.

Baton Rouge, Louisiana, November 10, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

FOR THE MIDDLE DISTRICT OF LOUISIANA

MINUTE ENTRY:
STEEN, J.

DATE: November 25, 1987

IN RE: 87-0038 (Adv.) JERALD LEE BARKSDALE
versus
BANK OF ZACHARY

Related case: 86-00495
Jerald Lee Barksdale

MATTER:

Hearing on motion of Plaintiff to set aside judgments

APPEARANCES:

Immediately prior to the call of the motion docket, the court announced that in preparation for the schedule hearings on motions and applications set for this date, the Court had reviewed the pleadings and record in each case set pleadings and the record in the matters set forth above. Since it was possible to rule from the pleadings and the record, the Court announced that it appeared that no hearing

was necessary and the Court invited all parties available to them in writing at that time. The parties were also invited to request a hearing at the end of the call of the motion docket if the party desired a hearing so that the Court could be informed of any facts or issues not contained in the pleadings or if the party believed the Court had not sufficiently or correctly considered some fact or issue in its proposed determination of the proceeding. No such request was made.

RULING:

Motion is denied based on review of record and the issues are referred to the numerous and confusing appeals previously filed.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATE BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE :
:
JERALD LEE BARKSDALE :
:
DEBTOR :
:
JERALD LEE BARKSDALE :
:
PLAINTIFF : ADVERSARY
: NO. 87-0038
: (RELATED CASE:
: NO. 86-00495)
:
vs. :
:
BANK OF ZACHARY, :
:
DEFENDANT :

ORDER

The hearing on the motion of Jerald Lee Barksdale, plaintiff herein, seeking order setting aside judgments, having come on for hearing on November 25, 1987, and based on the record,

IT IS ORDERED that the said motion be and it hereby is denied and the issues are referred to appeals previously filed.

Baton Rouge, Louisiana, December 15, 1987.

WESLEY W. STEEN
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE: § CASE NO.
§ 86-00495-BKC-WWS
§
JERALD LEE BARKSDALE §
§
DEBTOR § A REORGANIZATION CASE

MOTION WITHDRAWING PREVIOUSLY FILED MOTION TO CONVERT

NOW INTO COURT, through undersigned counsel, comes the Bank of Zachary, and with respect represents that on April 3, 1987, it filed a motion to convert case; that said motion was based, among other reasons, on the belief that the Debtor had failed to file his monthly financial reports; that at the time of the filing of the Motion the monthly financial reports were not in the case record due to an error in the Clerk's office; that the monthly reports have now been found and the Debtor alleges that they have been properly filed; and that therefore the Bank of Zachary

wishes to withdraw its previously filed motion to convert, without prejudice,

THEREFORE, the Bank of Zachary hereby withdraws the motion to convert case filed by it on April 3, 1987, which motion had been docketed for May 13, 1987.

By Attorneys,

KANTROW, SPAHT, WEAVER & BLITZER
P.O. Box 2997
Baton Rouge, LA 70821-2997
Telephone (504) 383-4703

By: ______________________________
David S. Rubin

CERTIFICATE

I hereby certify that a copy of the above and foregoing has been mailed, this day, postage prepaid, to Reginald J. Laurent, 2767 Sgt. Alfred Drive, Suite 202, Slidell, LA 70458.

Baton Rouge, Louisiana, this 7 day of April, 1987.

____
David S. Rubin

UNITED STATES BANKRUPTCY COURT

MIDDLE DISTRICT OF LOUISIANA

IN RE:	*	NUMBER
	*	86-00495-BKC-WWS
JERALD LEE BARKSDALE	*	
	*	
DEBTOR	*	A REORGANIZATION
	*	CASE
BANK OF ZACHARY	*	
	*	
MOVANT	*	
	*	
VERSUS	*	A CONTESTED MATTER
	*	
JERALD LEE BARKSDALE	*	
	*	
RESPONDENT	*	

MOTION SEEKING MODIFICATION OF THE AUTOMATIC STAY, ADEQUATE PROTECTION OF COLLATERAL, AND OTHER RELIEF, OR ALTERNATIVELY DISMISSAL OR CONVERSION OF THIS CASE

NOW INTO COURT, through undersigned counsel, comes BANK OF ZACHARY, a state banking corporation organized under the laws of the State of Louisiana, with its principal office in Zachary, Louisiana (the "MOVANT"), and respectfully represents as follows:

1.

On April 15, 1986, Jerald Lee Barksdale, (the "Debtor") filed a voluntary petition for reorganization under 11 U.S.C. Chapter 11 (Chapter 11 of the Bankruptcy Code) and was continued as and appointed a debt-or-in-possession authorized to administer his estate in bankruptcy.

2.

This is a "core" proceeding as defined by §157(b)(2)(G) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, which may be referred to a Bankruptcy Judge under §157(a) of said Act for an order determining the issue under §157(b).

3.

MOVANT herein is a creditor of the Debtor.

4.

The Debtor is indebted to MOVANT as of April 16, 1985, in not less than the total principal amount of $58,240.90, plus unpaid

interest, plus attorney's fees as may be fixed by law. The aforesaid sums are referred to hereinafter as the "Indebtedness".

5.

The Indebtedness was recognized by a judgment of the Nineteenth Judicial District Court for the Parish of East Baton Rouge dated March 17, 1986, which judgment recognized and maintained MOVANT's security interest. The indebtedness is evidenced and secured by the following documents and the property described therein:

(a) One (1) certain promissory note made and subscribed by the Debtor, payable to the order of MOVANT, dated December 7, 194, in the original principal amount of $16,039.20, bearing interest at the rate indicated therein from date until paid, payable in installments as set forth in said note.

(b) One (1) certain promissory note made and subscribed by the Debtor, payable to the order of MOVANT, dated August 10, 1984, in the original principal amount of $19,402.38, bearing interest at the rate indicated therein from date until paid, payable in installments as set forth in said note.

(c) One (1) certain promissory note made and subscribed by the Debtor, payable to the order of MOVANT, dated September 18, 1984, in the original principal amount of $3,374.62, bearing interest at the rate indicated therein from date until paid, payable in installments as set forth in said note.

(d) Act of Chattel Mortgage executed by the Debtor dated December 7, 1984.

6.

Upon information and belief, all of the aforesaid documents were validly and properly confected, executed, and recorded.

7.

The Debtor is in default under its obligations to the MOVANT, having failed in accordance with the provision of the documents referred to, to make payments on the Indebtedness, and further as set forth in judgment referred to.